

# COSMOS + TAXIS

Studies in Emergent Order and Organization



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## IN THIS ISSUE

Symposium on Kevin Vallier's *Trust in a Polarized Age*

Editorial Introduction: A Hurray for Liberal Democracy? . . . . . 1  
*Ritwik Agrawal*

The Ties that Bind: Associations and the State . . . . . 4  
*Christie Hartley and Lori Watson*

Institutional Trust, the Open Society, and the  
Welfare State . . . . . 14  
*Otto Lehto*

Trust and the Right of Association. . . . . 30  
*Ryan Patrick Hanley*

Fault Lines and Fractures in Political Communities. . . . . 34  
*Alex Motchoulski*

Two-And-A-Half Cheers For Socialism. . . . . 43  
*William A. Edmundson*

Can We Trust Neoliberalism? . . . . . 49  
*Eric Rowse*

Public Reason Liberalism's Classical Tilt Revisited . . . . . 58  
*Kevin Vallier*

## Reviews

Authority and Freedom: Reflections on the Recent Kos  
Collections. . . . . 69  
*Christopher Adair-Toteff*

*Professor of Apocalypse: The Many Lives of Jacob Taubes*  
by Jerry Z. Muller. . . . . 76  
*S. G. Zeitlin*

## In Memoriam

Troy Camplin and Gloria Zúñiga y Postigo . . . . . 80  
*Leslie Marsh*

Editorial Information . . . . . 83

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## Editorial Introduction: A Hurray for Liberal Democracy?

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Liberal democracy is in crisis. Or so its detractors would have us believe. Discussions about international politics over the last few years have repeatedly raised the scepter of the retreat of liberal democracy in countries such as Turkey, India, and Hungary. Brexit and the election of Donald Trump in the United States are only the most prominent examples of a worldwide surge in populism. The refusal of Trump and his most vocal supporters to accept defeat in the 2020 US presidential elections and the subsequent insurrection at the US Capitol, as well as the deepening of polarization in the wake of the COVID-19 pandemic, have given rise to serious concerns about the continued capacity of liberal institutions to command widespread public legitimacy. There is little doubt that the present situation is very different from the triumphant “end of history” in favor of liberal democracy that the winding down of the cold war was supposed to have ushered in. In contrast, today there is talk of “postliberal” politics and calls to weaken or abandon core liberal principles such as free speech and religious pluralism (Deenen 2019).

In contrast to this trend, Kevin Vallier, in *Trust in a Polarized Age* (Oxford University Press, 2020), the follow-up to his *Must Politics be War?* (2019), forcefully argues that liberal institutions, grounded in the tradition of public reason, remain our best bet to restore political trust and depolarize our politics. Notably, Vallier resists temptations toward radical change or innovation, choosing instead to carefully explore the possibilities offered by existing liberal institutions and rights practices to restore trust. Vallier’s chief claim, drawing upon a rich variety of empirical sources in the tradition of Philosophy, Politics, and Economics (PPE), is that liberal rights practices generate and sustain trust, and furthermore, that such practices can be justified to all in a diverse society. Even as Vallier draws upon empirical sources, his argument is distinctively philosophical, concerned as it is with normative and not merely descriptive matters. He dissects alternative forms of political order and finds them wanting in generating trust for the right reasons. Like Jerry Gaus (2011), Vallier finds that public reason has a *tilt* toward classical liberalism, especially in diverse societies with a high degree of disagreement on social and political matters.

As Vallier notes in his response to this symposium, most commentators disagree with his conclusions, for a variety of reasons. Christie Hartley and Lori Watson argue that Vallier’s defense of a strong right to association may conflict with his commitment to individual rights. This is reminiscent of heated disputes over multiculturalism, as the rights of groups sometimes come into conflict with the core liberal commitment to strong individual rights, since many

groups (or associations) do not always do a good job of respecting individual agency and intra group disagreement. Hartley and Watson also raise pressing concerns about the status of women and children in Vallier's preferred political schema.

Otto Lehto presses Vallier on his argument against an unconditional basic income (UBI). Vallier prefers limited (conditional) social insurance, arguing that it is implausible that a UBI can be publicly justified in most situations. Lehto skillfully marshals philosophical argumentation as well as empirical data to argue for universal and unconditional social insurance as a key policy measure to generate and maintain trust. His contribution also touches upon Hayek's views in favor of what we today understand as UBI.

Ryan Hanley emphasizes a key lesson from Adam Smith, that social trust is necessary to any well-functioning commercial society. He commends Vallier for returning our attention to this dynamic in his defense of liberal institutions. Hanley goes on to remind us that, very often, generating and maintaining trust is a matter of how rights are actually exercised. As an example, Hanley penetratingly points out that the freedom of association enjoyed by universities and colleges could be used far more effectively than it is at present. For example, members of these communities could learn much from greater exposure to genuine difference, for which freedom of association is necessary but far from being sufficient. So, a high trust society is at least as much a matter of culture, social norms, and attitudes, as it is about the guarantee of rights.

Alex Motchoulski grants that Vallier's proposals for restoring trust can work in many situations but worries about cases where distrust and polarization have run so deep that some members of a community doubt the very moral competence of other members. Motchoulski argues that Vallier's liberal institutionalist proposals are unlikely to be effective at restoring trust in such situations. This, of course, sparks worries whether distrust in our times has run as deep as Motchoulski fears.

Bill Edmundson argues that Vallier's dismissal of socialism is hasty. While he acknowledges that prominent socialist experiments may have failed historically, he contends that liberal socialism, which provides for considerable space to markets, is a viable contender for a trust generating and sustaining social and political order. To buttress Edmundson's claim, Scandinavian countries, as well as postcolonial "mixed economies" as advocated by leaders like Jawaharlal Nehru, can be seen as reasonably successful examples of a liberal socialist order.

Eric Rowse takes a big picture view, charging Vallier of being located within the tradition of neoliberalism. He argues against Vallier's emphasis on efficiency and economic growth, contending that growth is just one among a variety of desiderata in a reasonably just social and political order. He accuses Vallier of effectively prioritizing negative rights over positive rights, a charge that Vallier vehemently denies.

In his reply, Vallier restates, contextualizes, and clarifies his arguments as presented in *Trust in a Polarized Age* (and in *Must Politics Be War?*), and responds to specific lines of criticism raised by the symposiasts.

Social trust remains a fascinating area of inquiry. One of the issues that this symposium doesn't touch upon, but which cries out for philosophical analysis, is the potential trade-off between social and political trust and other values, such as truth-seeking. One can easily conceive of situations where discovery and discussion of uncomfortable truths (e.g., patterns of severe oppression) can erode social trust in the short to medium term, but nevertheless may be valuable in and of itself and may even have positive long-term effects on social cohesion, perhaps by enabling a process of reconciliation. There are questions about whether high levels of trust are desirable in all circumstances, trade-offs between trust and other values, the difference in attitudes toward trust of adherents of different political persuasions (e.g., a conservative might highly value trust in most or all situations), and so on.

A word on the selection of participants in this symposium. From the beginning of this project, my effort was to put together a group of exciting and provocative scholars who would, as a collective, be diverse along many different parameters. Due to exigencies caused by the COVID-19 pandemic and personal factors, some scholars had to drop out. Among them, they represented perspectives from the global south and training in disciplines such as economics and labor history. Nonetheless, I am happy that the remaining

symposiasts bring different perspectives embedded in varying social locations, academic seniority, disciplinary background, and gender.

I thank Kevin Vallier and Leslie Marsh, managing editor of *Cosmos + Taxic* for their invitation to put together this symposium. I thank all the contributors for agreeing to participate and for their patience and equanimity through the process of peer review and resulting revisions. My gratitude to all reviewers for helping to improve the quality of discussion in this symposium.

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## The Ties that Bind: Associations and the State

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### 1. INTRODUCTION

Americans' trust in each other and their government has plummeted while partisan divergence has increased. Among other things, the erosion of trust fuels increased political conflicts, less effective government, and strained relationships among members of society, including friends and family. Recent events in the United States including the insurrection at the U.S. Capitol and the inability of political leaders to unify Americans in the face of the COVID-19 pandemic have underscored the fear of some pundits and scholars that the American experiment in democracy may not endure. Greater trust alone won't solve all the problems, but it's clear that without greater trust, the kind of cooperation needed for addressing the pressing problems of the 21<sup>st</sup> century—such as climate change, increasing social and economic inequality, and the threat of future pandemics—is unlikely to emerge.<sup>1</sup>

In *Trust in a Polarized Age* (2021), Kevin Vallier takes up the serious issue of falling social and political trust in liberal democratic societies, most acute in the U.S. He aims to show that we can overcome our current predicament and realize a moral peace, and he argues that “the ordinary tools of liberal democratic law and policy are the best hope we have for arresting the decline” (2021, p. 10). Beyond its timeliness, the book is ambitious. Indeed, it is the sequel to *Must Politics Be War?* (2019) where Vallier tackled the philosophical question of whether it is rational to think that liberal democratic states give persons reason for social and political trust, both of which are necessary for stability and moral peace. In *Trust in a Polarized Age*, Vallier focuses on the practical problem of establishing a moral peace, and he argues that “certain key liberal rights create *real trust* for the *right reasons*” (2021, p. 16). To show this, he makes two types of arguments for certain liberal rights. First, he argues that empirical evidence suggests that some liberal rights practices help produce trust among fellow members of society and/or increases trust in government. Second, he argues that these rights are publicly justified. Together these arguments, if successful, would establish that there is real trust for the right reasons (2021, p. 16).

Vallier's arguments are thoughtful and carefully constructed. His work on these issues will frame discussions on social and political trust and their connection to liberal rights practices for years to come. Yet, there are serious grounds for concern about some of his arguments. In this article, we consider Vallier's arguments regarding freedom of association. He claims that moral associations, both civic and commercial, are trust building and trust enhanc-

ing. Central to his argument is that moral associations increase and cement social and political trust by exposing persons to diverse others. Further, he thinks that when persons observe others respecting the boundaries of certain rights, their trustworthiness is demonstrated. He also argues that an extensive right to freedom of association is publicly justified within the framework of a convergence approach to public justification. Here we challenge some of the arguments that Vallier makes in connection with the public justification of freedom of association. Along the way, we raise some concerns about the causal mechanism he posits between moral associations and social and political trust, too.

## 2. AN INITIAL QUERY

Before we examine Vallier's case that freedom of association contributes to social and political trust and is publicly justified, we raise an initial concern about Vallier's project. In short, we are worried that Vallier's arguments, even if successful, would do little to help us address falling trust in American society. Vallier defends the *distrust-divergence* hypothesis, that is, the view that "social and political distrust and partisan divergence are mutually reinforcing" (2021, p. 9). Fair enough. Again, his goal is to provide some evidence that some liberal rights practices help produce trust among fellow members of society and help increase trust in government and to show that that these rights are publicly justified. However, he also stresses in the introduction to the book that a primary cause of our present distrust is "not due to rational disagreement but to affect formation." He says, for example, that "[f]or the most part, we are emotionally rather than intellectually at odds" (2021, p. 4). One of his critical claims from *Must Politics Be War* is that observing others "comply with the directives of liberal institutions" manifests a kind of trustworthiness and "gives others reason to trust them" (2021, p. 15). However, as Vallier would admit, having a reason to trust does not mean that people will be trusting. As part of the practical problem of "distrust and divergence," what we wanted to know more about in this book is the social mechanism that might tie some liberal rights practices (in certain conditions, presumably) to trust-favorable *affect* formation. That is, what is the connecting mechanism between certain liberal rights practices and the needed affect formation? Or, perhaps, we should ask: to what extent are the arguments of the book meant to address the fact that, as he puts it, we are emotionally at odds? We are not sure if the arguments are meant to do this, and we don't think they do. In the end, Vallier's hope for a moral peace seems to rest on a rather optimistic assessment of our conditions, of persons' being responsive to reasons, and of persons' ability for affective change. Perhaps, some of Vallier's optimism is warranted; in fact, we hope so. Yet, in the face of so much animosity, mistrust, hatred and scapegoating of minorities, there is a lot of room for doubt.

## 3. MORAL ASSOCIATIONS, FREEDOM OF ASSOCIATION, AND TRUST

That Vallier argues freedom of association is a constitutional right—a basic, primary right—that enjoys public justification is not surprising. Any defender of liberalism will endorse this claim. Vallier's view, though, is distinct in a number of respects, and even sympathetic liberals will question some of his conclusions and his support for them. Some questions will have to do with worries about the scope of the associational rights practice he defends or the justification he offers. Other questions will concern the contributions that he takes associations to make to the social order and his firm belief that the practice of the right in actual associations enhances social and political trust. We mainly discuss our concerns in the following sections, as, in this section, our primary aim is to outline Vallier's central claims about associations.

Consider, first, Vallier's idea of moral associations and the right to freedom of association that he defends. Vallier defines moral associations by two fundamental characteristics. The first is that moral associations have moral rules that "are organized to promote a common end, a *commitment* shared by its members" (2021, p. 95). The second is that moral associations have a legal principle that concerns the association's rules of operation (2021, pp. 95-96). Vallier distinguishes two types of moral associations: civic and commercial. Civic associations, roughly, are non-governmental associations whose common end is not profit-making;

representative civic associations are religious associations, charities, service groups, and most colleges and universities (2021, p. 97). Commercial associations, by contrast, are fundamentally concerned to generate profits for their members; examples include firms, unions, professional bodies, and the like.

In the exercise of their primary right of freedom of association, Vallier claims that persons should enjoy extensive protection from interference from others, including the government, and that they should not even be subjected to moral criticism by those outside of their associations for following or not following their associations' rules (2021, pp. 94-95). Only fellow members of an association have standing to criticize or try to modify the rules or ends of an association. Non-members lack such standing, and, so, the internal workings of an association (its rules and or its procedures) do not need to be justified for non-members. Non-members should "mind their business" when it comes to association matters (2021, p. 94). Vallier does concede that in cases in which non-members are excluded from membership (based on racism, sexism, or homophobia, say), non-members *may* have standing to protest their exclusion and even take legal action (2021, p. 95). Such standing to protest discrimination, though, seems to be tied to whether the goods available or the important social functions provided through the association are otherwise sufficiently available. On this point, Vallier says, "if many associations exclude oppressed racial minorities from membership, then the members of the racial minority may have good reason [to] reject the rule excluding them from interfering with those organizations, in which case they have standing to criticize their exclusion and perhaps to seek legal or political remedy" (Ibid.). Here Vallier's view resonates with those who argue that groups that deny services to gays and lesbians should not be compelled to offer their services when there are a sufficient number of similar service providers available who do not discriminate. Still, Vallier makes an important break from some liberal views. As he seems to be defending the idea that whether an association is private (e.g., a religious association or club) or offers services to the public (e.g., a commercial firm), the permissibility of exclusion, segregated service, or the denial of goods (or access to an important social function) for non-association members is a matter of non-members' sufficient access to similar goods or social functions.<sup>2</sup> This means that, in some circumstances, Vallier's view permits associations open to the public (e.g., commercial firms) to discriminate on the basis of factors (e.g., race, gender, sexuality) currently protected by civil rights law. It also makes protection from discrimination in the public sphere dependent upon the particular beliefs, values, and practices of other members of society. Thus, the protection of some important civil rights comes down to a contingent fact: the extent to which discriminatory association practices block some persons' access to goods or some important social function.

In any case, Vallier is optimistic that the actual rights practice of freedom of association is trust enhancing—both for social and political trust. He says, "The hope is that freedom of association makes it possible for societies to have a robust, flourishing civic life" (2021, p. 89). However, sufficient data regarding commercial associations and social and political trust is not available. Some data does suggest a connection between civic associations and social and political trust, albeit the data is mixed. To the extent the data suggests that associations produce social and political trust, intergroup contact—contact between members of the association and other members of the public—is key (2021, pp. 90-91). But, at the same time, such contact may produce prejudice and distrust. It depends on the conditions. In presenting the empirical evidence, Vallier draws on a literature review by Thomas Pettigrew and Linda Tropp showing that, in fact, intergroup prejudice can be reduced under certain conditions, including, notably, equal power and status among the group members when they interact. Note that this meta-analysis doesn't claim that intergroup contact increases trust, only that it *can* reduce prejudice under highly constrained conditions. Given that Vallier is concerned with real-world trust, there is good reason to doubt that the prejudice reducing conditions in the study obtain in many contexts in the U.S. Vallier thinks that "association membership in toto seems to increase trust because it increases contact with the public" (2021, p. 91). Again, we are skeptical. It seems like it all depends on the conditions and that makes it not simply a matter of freedom of association. Further, in a society with the sort of rules that Vallier thinks would be publicly justified (given his commitment to convergence liberalism and the views of moderately idealized counterparts of real-world people), we also question whether the prejudice reducing and trust building conditions needed would obtain. As we



explain below, given diversity, convergence theorists claim that it is to be expected that fewer rather than more rules are publicly or subpublicly justified. This, of course, would include rules or policies that aim to ensure conditions for social equality in various contexts.

This brings us to Vallier's case for the public justification of freedom of association. His argument begins from the claim that, while the internal rules and procedures of an association need not be publicly justified for all members of society, the rules of an association must be subpublicly justified for its members. For example, if a religious institution only allows men to have positions of power and authority in the association, that only needs to be justified for members of the association (and not for all members of society). On his view of public justification, "a moral rule is publicly justified only if each member of the public has sufficient intelligible reason to comply with and internalize the rule" (2021, p. 35). And, so, for associations, a moral rule is subpublicly justified only if each member of the association has sufficient intelligible reason to comply with and internalize the rule. Any associational rule for which any member of the association has a defeater fails to be subpublicly justified.

Insofar as a society with only moral rules "will be uncertain, ineffective, and static" (2021, p. 36), Vallier thinks that laws are needed. However, Vallier claims that "laws are publicly justified when they help us follow moral rules that are justified for us or amplify the existing legal order in a similar fashion" (2021, p. 37, note omitted). Primary rights, which are understood as constitutional rules, are among the laws needed. These rights are the kind of right "that all would want regardless of their rational plan of life or conception of justice and that persons are willing to extend to others on reciprocal terms" (2021, p. 102). Freedom of association, as indicated above, is this kind of right. He claims that its importance stems from the facts that almost any conception of the good involves persons being able to engage with each other in associations and that associations of various sorts are needed for projects related to many persons' sense of justice. Further, Vallier emphasizes that persons have publicly justified rights of agency and that freedom of association allows persons to "develop, protect, and expand their agency" (Ibid.).

To determine the primary rights that are justified, Vallier claims we need to consider what would be justified for the moderately idealized counterparts of real-world persons given a thin veil of ignorance that only conceals the power and status of persons (2021, p. 40). Those facts are blocked so considerations of political hegemony (theirs or others) don't affect the selection of rules. All else is known. Vallier imagines that the thin veil of ignorance makes persons "somewhat risk-averse" in the sense of "keener on seeking protections for their rights than on seeking hegemony over others" (2021, p. 102). Again, freedom of association supports rights of agency and pursuing a view of the good and of justice, and, so, moderately idealized members of the public "would choose equal extensive rights of association" (2021, pp. 102-103).

As a result, Vallier claims that the state's power to legitimately interfere with moral associations is quite limited. Recall that he holds that legal rules are only needed because a society with mere moral rules will be "uncertain, ineffective, and static" in various ways. Where publicly or subpublicly justified moral rules, including the moral rules of associations, are either "adequate" (2021, p. 98) or more effective than the state (2021, p. 103), the state should not interfere. In such cases, Vallier says that the state "lacks any priority over the liberty of associations" (Ibid.). Legitimate state interference with respect to freedom of association includes enactment of just the law and policy needed "to protect freedom of association, render it determinate, and resolve disputes about its extent" (2021, p. 102). The state may also interfere if "the organization imposes some harm or restriction on nonmembers based on an unjustified/defeated rule" (2021, p. 98). So, for example, as noted above, Vallier thinks that if enough moral associations had exclusionary race-based membership rules, it may be permissible for the state to intervene. In this case, justified interference is based on justified rules that the state is better suited to enforce.

From his argument for the public justification of freedom of association as a primary right, Vallier claims it follows that "activities that involve the codification, protection, appropriate reform, and expansion of primary associational rights should serve as touchstones of trustworthiness" (p. 103). As "all can see" that such rights are publicly justified, actions that respect and protect such rights should count as "evidence of the trustworthiness" of those undertaking such actions. In short, such actors are signaling they not only do

not wish to dominate others by undermining their right to association but, also, that they wish to secure their rights to associations on an equal basis.

#### 4. DIVERSITY WITHIN MORAL ASSOCIATIONS

Having captured the core features of the view, we now focus on some concerns. In this section, we argue that Vallier fails to adequately consider diversity *within* associations and that the fact of diversity within associations may present challenges for the extensive right of freedom of association he defends. In short, we argue that given the principle of public justification that he endorses, many of the rules of moral associations will not be subpublicly justified. Persons may remain in these associations, even though they have freedom of exit and even though they lack the power to change to the rules, because they need or want access to certain goods that flow from the association. Insofar as the protective posture that Vallier takes toward associations depends on the claim that associations provide important social functions or social goods to their members in accordance with rules and practices that are justified for members, then Vallier's protectionist stance may be unwarranted. This is to say that we think the high bar of justification that Vallier adopts for association rules may serve to undermine his argument that we should leave associations alone because they provide goods to members on grounds that are justifiable for them. Associations are and have been run by those with the most privilege and with the power to enforce their preferred rules on others. Appreciation of this is strangely absent from Vallier's discussion. Consider our case.

Again, Vallier's account of the public justification of moral and legal rules is a type of convergence theory.<sup>3</sup> Convergence theorists emphasize that their view is distinct in its unwavering opposition to authoritarianism and its respect for real-world diversity. Their commitments result in the view's "classical tilt" when it comes moral and legal rules for society (Gaus 2011, pp. 497-529). The basic idea is that, given the diverse beliefs and values of persons, it is to be expected that, there will be fewer rather than more justified moral and legal rules. Convergence theorists think that, when persons enjoy certain freedoms, a diversity of views held by members of society is inevitable. With Rawls, they recognize the burdens of judgment, which include that theories are always underdetermined by the evidence and that people who make no formal mistakes in reasoning can differ about how to interpret evidence as well as how to weigh and order values (Vallier 2019, p. 20).<sup>4</sup> Vallier also stresses Hayek's (2019, pp. 20-21) observations about pluralism, including that persons "organize subjective percepts in cognitively unique ways" and that given cognitive limitations individuals can only consider limited aspects of complex social phenomenon.

Vallier doesn't say much about diversity *within* associations, though, in his justification for an extensive right of freedom of association. Such diversity is worth considering. Let's return to the idea of moral associations. A distinguishing feature of associations is that they promote a common end. So, presumably, voluntary members of moral associations have something in common when it comes to their beliefs and values. Indeed, they may have many values and beliefs in common. And, some rules of moral associations may even be justified for some members for the same reasons. Of course, the rules of moral associations may be justified for members of the association for different reasons, too.

Still, despite some commonality, there is good reason to think that there will be diversity in the beliefs and values of members of moral associations. Moral associations are concerned with some end or ends of persons, but, even assuming persons are reasoning well, individuals may think about the ends they share with others in different ways and disagree about what will promote these ends. Moreover, members of associations have other beliefs, values, projects, and commitments, too, and they will have to reconcile their various beliefs, values, and commitments. Moral associations also differ considerably with respect to the scope and specificity of their common end(s). For example, sports clubs have a limited scope and specific ends, but religious institutions tend to have ends with greater scope and generality. Of course, when common ends have a large scope or less specificity, there is likely to be more divergence about what is needed to promote the end. Further, there is likely to be more divergence in the views of members of large associations than smaller ones as the more people there are, the more likely that some may see matters differently

even when they are reasoning well. All this is to emphasize diversity *within* associations and to note that the upshot of diversity within associations is that, generally speaking, we should expect fewer rather than more subpublicly justified rules for members of moral associations.

Sometimes diversity within an association leads to persons leaving an association and, in some cases, forming a new one. But, diversity within associations doesn't always lead to that. As Vallier says, for some, association membership is a central part of their identity (2021, p. 100). These persons may be free to exit, but they may be committed to the common end, even if they understand it differently than some others or disagree about what respecting it requires.

There is no shortage of examples of moral associations that have rules that are not subpublicly justified for all their members given the standard of public justification that convergence theorists employ. As a matter of fact, often the rules of moral associations reflect the interests of those in power. This is true of religious associations, colleges and universities, organizations for women's rights, etc. For example, women of color in the United States have long protested the fact that even when they were permitted membership in associations formed to advance women's rights the rules of the association reflected the interests of the most privileged women, those who were White, middle-class, and straight. It doesn't follow from the fact that persons voluntarily continue to participate in moral associations and comply with their rules that the rules of an association are justified for all members. Sometimes people who are committed to an end will follow rules related to that end that are not justified for them because they lack the power to change them. And, sometimes, people voluntarily participate in moral associations and comply with rules not because they are committed to association's end but because the association provides them with goods or services that are not available or more costly to receive elsewhere.

Vallier, of course, would recognize that many moral associations have some rules that are not subpublicly justified for members, and we think he would be sensitive to certain facts about associations that make the public justification of rules within moral associations difficult. However, we don't think that he appreciates some of the problems or tensions diversity within associations creates for his argument.

Take the Catholic Church as an example of a moral association with a diverse membership. It is a large religious institution with many, many rules. These rules, among other things, forbid women from becoming priests, prohibit priests from marrying, and ban the recognition of same-sex marriage. There are many Catholics who do not endorse these rules and claim they are unjustified. For example, in a recent article in *The New Yorker*, Erin Conway—Catholic and graduate of Jesuit School of Theology in Berkeley—stated: “There’s this theological argument against women—that the priest is *in persona Christi*, and that since Jesus was a man you can’t be a priest if you’re not a man. But I come back to the idea that God is *bigger* than that. It just seems too limiting to say God only wants half of the population to be priests. I want a God who isn’t worried about your anatomy but *is* interested in your call.”<sup>5</sup> Of course, although persons may have reasons that weigh against a rule, a rule may still be justified for them for other reasons (e.g., respecting Church authority). Yet, convergence theorists think that if *any* member of an association has a defeater for a rule, then the rule is not subpublicly justified. It is implausible to think that among all the members of the Catholic Church, some moderately idealized members don't have defeaters for the prohibition against women clergy. It also implausible that some moderately idealized Catholics don't have defeaters for other “controversial” rules, too (e.g., the prohibition against priests marrying, against the recognition of same-sex marriage, and even against contraceptive use and abortion).<sup>6</sup> Here our point is not that, given this view, as a matter of fact, it is often the case that “progressive” or “more egalitarian” rules are subpublicly justified for members of moral associations such as the Catholic Church. Rather, our point is that, regarding many issues, there will be no subpublicly justified rules in moral associations. This has implications for Vallier's claims about the relationship between moral associations and the state, which we discuss below.

First, though, we note that Vallier will likely concede the some of the rules that are part of moral associations are not justified for all members. He may say that the real question is whether the state can interfere in associations to address unjustified rules. Still, to be clear, we are skeptical that he actually regards some of the “controversial” rules of moral associations that we have in mind as unjustified. In his discussion of reli-

gious associations that prohibit women from taking certain positions, he says: “religious social norms can permissibly assign leadership positions to men alone if they are subpublicly justified for the women in subordinate positions; in fact, because these norms are subpublicly justified to them, they may even count as an extension of the freedom of these women of faith. However, if the norms are not so justified, and so illicitly restrict the freedom of women, the law may intervene” (2021, p. 112).

But, let us suppose Vallier agrees that, given diversity within associations, many rules of moral associations—especially the “controversial” ones—are unjustified. When would Vallier’s view support state interference to address the unjustified moral rules of moral associations? He claims that the state may only intervene in cases in which “unjustified associational rules can be clearly and predictably improved by legal and political institutions” (2021, p. 95), and he stresses that sometimes state interference is not the best way to address unjustified moral rules (2021, p. 112). Of state interference with religious institutions for the sake of gender equality, he seems to think that because religious institutions would regard such interference as a violation of their integrity and unfair (Ibid.), government interference would be resented even if effective; so, it should not be undertaken for that reason.<sup>7</sup> But, who, exactly, would he think regards the interference as unfair and a violation of the institution’s integrity? Those most likely to regard the interference as unfair and a violation of the institution’s integrity are those who are in power and with the most to lose if the unjustified rules are removed. Some others may object to interference, too, but uniform objection is unlikely, given diversity. It seems to us that there is a conflict between Vallier’s commitment to opposing the imposition of unjustified rules on persons and Vallier’s deference to and protection of the “integrity” of moral associations that, no doubt, have unjustified rules.<sup>8</sup> We grant that, sometimes, maybe even most of the time, the state would not be effective in addressing certain matters and that other avenues for change are in order. However, Vallier seems to favor some protection for associations even when the state would be effective at addressing unjustified rules, and he seems to endorse such protection for reasons that are in tension with his own commitment to opposing tyranny and authoritarianism.

Further, if we are right that moral associations typically have a lot of unjustified moral rules, then this puts pressure on the claims that Vallier makes about the proper relationship between moral associations and the state. Vallier says:

Given that civic associations can exist in the absence of many forms of law and politics, and have long ordered social life, they play a foundational role in establishing a social order. If civic associations can adequately perform various important social functions in ways that can be justified to their members then on my account of public justification, the state should not interfere unless the organization imposes some harm or restriction on nonmembers based on an unjustified/defeated rule (2021, p. 98).

Sure, moral associations have existed for a long time, they have long ordered social life, and some types existed before the modern state. Nothing follows from any of this. Have associations performed important social functions in ways that are justified to all members given the demands of convergence theory? Perhaps, in some cases, that is true. However, given the burdens of judgment and the way in which moral associations have and still primarily serve the interests of those in power, they often do not. To clarify our point, moral associations may have provided important social functions in the social order, but they have often done so in ways that are not justified for everyone and in ways that have perpetuated and maintained objectionable social hierarchies based on, for example, gender, race, and sexuality. It seems to us that Vallier’s lack of consideration of diversity within associations and his altogether too rosy a picture of moral associations lead him to the view that these associations adequately serve the interests of their members for the most part. And it is because and insofar as he thinks that members interests are adequately served that he thinks we have good reason to think that (many of) the rules of moral associations are justified for members. With these claims in place, he concludes that moral associations should enjoy extensive protection

from state interference through the rights practice of equal extensive freedom of association for persons. There is good reason to question the claims on which his argument rests, even if one agrees that freedom of association is a fundamental liberal rights practice.

## 5. THE PRIORITY OF THE STATE, BALKANIZATION, AND NONVOLUNTARY PARTICIPANTS

Now we raise questions about some other issues that merit more attention in Vallier's discussion of associations. The first has to do with the relationship between the state and moral associations. Vallier is clearly right that the moral order is much broader than the legal order and that the law neither can nor should address the whole of morality. However, Vallier denies states have *priority* or *sovereignty* over moral associations. Instead, he claims that "democratic states are only licensed to restrict associational freedom, both in civil society, and in some cases, in the market, when the rules of associations are not publicly justified to their members, or the jurisdictional rules restricting standing for others to criticize the organization for exclusion are defeated or reasonably rejected" (2021, p. 106). We think this statement of the relationship between moral associations and the state mischaracterizes his own commitments. He holds that individuals have basic rights that cannot be violated by other individuals or associations, and he thinks that in some cases the state will have to settle "jurisdictional boundaries" for moral associations. This means that the state doesn't merely have a license to restrict associational freedoms when association rules are not justified for members or in some cases when associations exclude nonmembers. On his view, the state must also have the authority to determine when rights violations occur, when jurisdictional issues need to be settled, when rules are not justified for association members, and when nonmembers have standing to criticize associations. If the state has authority to decide these issues and enforce its decisions, the state has a kind of priority or sovereignty over associations. How does it not?

Next consider the worry related to Balkanization, that in a society in which associations are granted extensive protection from state interference, "associations will undermine social trust and political stability by producing inwardly focused citizens" (2021, p. 109). Given the protectionist stance that Vallier takes toward associations, this is an important challenge to his view. However, he thinks that isolated and/or insular groups often lack the power to do any real damage to social and political institutions and that when such groups lack power, they must be "left alone," even if they support hatred and bigotry or spread false information. Further, he argues that, in those cases in which the groups in question have more power and do pose a threat of some kind to social and political institutions, ostracism and criticism can be employed to challenge the practices of associations and, if necessary, the law. But, he claims that "since legal options are on the table, we need not worry about excessive Balkanization" (Ibid.). However, Vallier may be too optimistic.

Consider groups like QAnon and the Proudboys. Among other things, members of these groups have promoted hatred and bigotry, spread lies related to the COVID-19 global pandemic, and promoted violence as a means to challenge the results of free and fair democratic elections. They have damaged social and political institutions and, arguably, social and political trust, as they united and provided a forum for persons with pernicious racial views, as they convinced their followers to reject the recommendations of public health officials with regard to the pandemic (leading to unnecessary suffering and death as well as economic losses), and as they engaged in violent and deadly protests at the U.S. Capitol and elsewhere. Should we really not be too worried about excessive Balkanization, as Vallier says? Vallier's extensive protections for moral associations combined with his commitment to the "least coercive restraints available" may simply not be enough to block groups that try to undermine the democratic order. And, it is not clear what kinds of more restrictive policies could be justified given his commitment to a convergence account of public justification.

Finally, we wish to raise an important issue that is altogether absent from Vallier's discussion of moral associations. That issue has to do with the facts that many participants in moral associations are children,

that their participation is nonvoluntary (certainly before a certain age in any case), and that associations profoundly shape and influence what children come to believe and value. Take religious institutions, where children are often taught institutional norms and traditions from birth and where they are subjected to practices and ceremonies of various sorts. Sometimes children are told that they must accept an institution's beliefs, practices, and authority without question; indeed, they may be told the fate of their soul depends on it. Children participate in moral associations at the discretion of their parents (or other legal guardians) and because of what their parents' believe and value. However, even if parents' (or other legal guardians) are viewed as trustees for children's interests, parents have conditional, limited authority over their children, and children are persons distinct from their parents. Children's interests can't simply be determined from their parents' beliefs and values.

As we noted in our earlier discussion, some moral associations adopt or are premised on views about gender, race, and sexuality that many people reject. And, it is likely that some rules of these associations are not subpublicly justified for their members and that regarding some issues no rules are justified for members. In defense of hierarchies within moral associations, Vallier says that refusal to exit or, alternatively, voluntarily joining an association in the first place is a good proxy for the public justification of a hierarchical order. As he puts it, "in many cases, voluntary submission is a good proxy for public justification; a choice provides powerful evidence that the agreed-upon arrangement is public justified for the persons that makes the agreement" (2021, p. 108). We think this claim is problematic when there is significant inequalities between members of social groups, but we will not say more about that here. Rather, now we want to make a point about Vallier's view and children. Given that children, who are nonvoluntary participants in associations, are subjected to practices in accordance with such hierarchies, something should be said to address that. That is, the protectionist view of moral associations that Vallier defends needs to be reviewed in light of the interests of children. It may be that Vallier needs to recognize additional grounds for state interference in moral associations to protect the interests of children, or it may be that protecting the interests of children is best achieved by the provision of certain goods for children (e.g., access to information, opportunities, etc.) to balance the influence of moral associations to which they cannot yet consent. Perhaps both will be needed. What is clear is that the case for an extensive right to freedom of association is incomplete, as Vallier's discussion fails to address important participants in such associations whose interests matter.

In conclusion, we greatly admire Vallier's work and appreciate his foregrounding issues of social and political trust as necessary for stability and a moral peace. As fellow liberals, we are sympathetic to many of his concerns and his conclusions. However, ultimately, we think the foundation on which his view rests cannot deliver what is needed. That is, we do not think the rules needed to create the conditions necessary for sufficient social and political trust can be justified given a convergence account of public justification and the views of (moderately idealized) real-world persons. Unless and until we move large portions of our society towards a more liberal orientation, the hope for a moral peace will remain only that.

## NOTES

- 1 Distrust, however, also has democratic value in some circumstances. See Krishnamurthy (2015).
- 2 For an alternative view, see Watson and Hartley (2018).
- 3 On convergence theory, see, for example, Gaus (2011) and Vallier (2014).
- 4 For Rawls's statement of the burdens of judgment, see Rawls 2005, pp. 54-58.
- 5 See, also, <https://www.womenpriests.org/>.
- 6 See, e.g., <https://www.catholicsforchoice.org/>; <https://news.gallup.com/poll/322805/catholics-backed-sex-marriage-2011.aspx>; <https://romancatholicwomenpriests.org>.
- 7 We surmise this from Vallier's discussion of Clare Chambers's proposal for equality tribunals to address discriminatory cultural practices. Vallier says: "the equality tribunal might successfully establish equality within, say, religious organizations, but hierarchical religious organizations would not trust such a body to treat them fairly

and would feel politically embolden to capture the governmental organizations that interfere with them to service their own sectarian ends, at least in part because the tribunal's power cannot be justified to them" (2021, p. 112). For Chambers's discussion of equality tribunals, see her 2008, pp. 117-157.

- 8 While we agree with Vallier that, in most cases, the state should not force religious institutions to ordain women, we think his argument for that claim is problematic given his own views. For our account, see Watson and Hartley (2018, pp. 106-131).
- 9 Our point here is that by his own commitments, Vallier should recognize the priority of the state. However, we do not endorse Vallier's commitments. For a compelling argument for the priority of the state over other institutions, see Laborde (2017).

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# Institutional Trust, the Open Society, and the Welfare State

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## 1. INTRODUCTION

In his insightful book, *Trust in a Polarized Age*, Kevin Vallier (2021)<sup>1</sup> convincingly shows that the legitimacy and sustainability of liberal democratic institutions are dependent upon the maintenance of social and institutional trust. This insight, I believe, has value beyond the illustrious halls of post-Rawlsian, post-Gaussian thought. Indeed, while I remain skeptical towards some of the premises of public reason liberalism, I am convinced that any liberal democratic political philosopher who takes the trust literature seriously and who has made their (pragmatic or principled) peace with redistribution has good reasons to sympathize with the general outlines of the institutional palette that emerges out of his book. In this article, I will take for granted Vallier's assumption that the erosion of social and institutional trust is a serious problem. This motivates investigating the trust-bearing attributes of the redistributive welfare state and the "principle of social insurance" that underpins it (p. 139f.). It is obviously not possible for me to tackle all aspects of welfare state governance. Instead, I will confine myself the topic of social insurance, cash transfer programs, and *Universal Basic Income* (UBI) (Hayek 1960, 1982; Friedman 1962; Brennan and Buchanan 1985; Buchanan 1997; Buchanan and Congleton 1998; Tomasi 2012; Zwolinski 2015, 2019; Murray 2016; Munger 2018; Lehto 2018, 2021, 2024 [forthcoming]; Fleischer and Lehto 2019; Lehto and Meadowcroft 2020).

The structure of my paper is as follows. In section 2, I reconstruct and critically analyse Vallier's case for a liberal democratic welfare state. I show that he makes a convincing public reason argument for universal social insurance but proceeds too hastily to exclude the principle of unconditionality from consideration. The rest of my paper consists of defending this claim by presenting two kinds of arguments—empirical and theoretical—that I think public reason liberals like Vallier, according to their own commitments, should be motivated to incorporate into their comprehensive discussion of the public justifications for and against basic income. They will show that UBI, although it remains contentious, has some features that could appeal to a diverse citizenry. I will argue that the integration of these two types of arguments into public reason framework, even if they are only partially correct (and their merits can be debated), is not only valuable in itself but also promises to tilt the balance of public reason justifications, at least more than Vallier concedes, towards *unconditional* UBI. First, in section 3, I argue that the empirical evidence about the relative merits and demerits of conditional and unconditional cash



transfer programs fails to determine the superiority of one type over another as an institutional mechanism for cultivating social trust. Then, in sections 4-5, I turn to a more philosophical mode, to discuss the theoretical foundations of the arguments for basic income from F. A. Hayek (1982) and Charles Murray (2016) that illuminate some of the potentially trust-eroding and trust-bearing features of the Open Society. This discussion speaks to one of Vallier's own themes, namely, the trust-carrying powers of the civil society, to make an "immanent critique" of the plausibility of his public reason justifications for conditional social insurance. Finally, in section 6, I conclude by suggesting that, although the evidence remains inconclusive, based on a careful reassessment of the combined empirical and philosophical justifications, an unconditional UBI may indeed be equally or more justifiable (even to some critics of the welfare state) than its alternatives.

## 2. THE LIBERAL DEMOCRATIC WELFARE STATE

Vallier argues that appeals to radical alternatives to the liberal democratic order, whatever their appeal, fail the test of public reason. All things considered, "liberal democracy is the best we can do" (p. 10). He defends a version of "welfare state capitalism" (p. 140) that protects the private property rights and other basic liberties of its citizens but also potentially corrects the market in several ways, including through the provision of public goods and the regulation of externalities, monopolies, and business cycles. He argues that despite some negative effects on taxes and productivity, "the welfare state helps create political trust" through its positive effects on such things as economic performance, public corruption, and rent-seeking, although he acknowledges that "the causal connection remains unclear" (p. 141). He summarizes his position in a succinct paragraph with distinct Hayekian echoes:

The closer we can approach a social insurance *Rechtsstaat*, that is, a regime governed by the rule of law, the more essential the welfare state will be for generating social and political trust in the real world. What we want is to avoid large bureaucratic bodies with the power to tinker with political and economic life, as these agencies will be targeted for capture and corruption. We should instead entrench certain universal welfare programs in the constitutional order. Doing so will also create greater stability (p. 146).

Here, Vallier joins the emerging chorus of classical liberal and libertarian scholars (Hayek 1944, 1960, 1982; Friedman 1962; Brennan and Buchanan 1985; Buchanan 1997; Buchanan and Congleton 1998; Tomasi 2012; Murray 2016; Munger 2018; Lehto 2021; Lehto and Meadowcroft 2020) in arguing for a reorientation of the welfare state away from the discretionary, highly bureaucratic administrative state, towards a "liberal constitutional order that can only engage in redistribution in a universal fashion" through programs such as "a simple, predictable negative income tax" that would take the place of many "targeted social programs" (p. 146). In short, "a welfare state that is operated in a procedurally fair and noncorrupt fashion" implies a rule of law framework that is compatible with securing "the welfare rights of citizens through forms of social programs that are universal, routinized, and predictable and that leave little room for corruption and incompetence in their administration" (pp. 145-146). This is supported by the trust literature where one major contributor to the high level of social capital in Nordic welfare states has been argued to be their "strong reliance on universal social programs" (Kumlin and Rothstein 2005, p. 362).

Vallier is also partially sympathetic to a full-blown constitutionalized UBI, or a Friedmanite Negative Income Tax (NIT), (Friedman 1962) that would "replace most social welfare programs, with the possible exception of catastrophic health insurance" (p. 147). However, Vallier argues that some amount of conditionality might have to be incorporated into the system. He thinks that welfare programs that combine broad universalism with some amount of limited conditionality can better "appeal to the diverse moral reasons of persons with distinct and incompatible worldviews" as required by public justification in a diverse society (p. 23). Public justification requires that "the extent of social insurance will be qualified by concerns

about deservingness, inefficiency, crowding out, and coercion” (p. 153). He therefore favours universal “programs whose benefits goes to most members of society based on simple, largely non-means-tested criteria” (p. 142). For example, if access to “negative income tax could be [made] somewhat conditional in ways that are hard to fake, that would speak in favor of the tax. Such a policy could be publicly justified, and would help to create social and political trust in the real world” (p. 147). Such programs are “correlated with higher social trust than welfare programs that target the poor,” through their link to lower corruption, strengthened rule of law, increased citizen solidarity, reduced stigma towards the poor, lowered incentives to cheat, and increased satisfaction with public bureaucracies (p. 142). Vallier offers a few examples of programs that satisfy the criteria of public reason, including the U.S. *Social Security* and *Head Start* programs as well as the Brazilian *Bolsa Família* program: “The genius of Bolsa Família is to provide largely unconditional cash transfers to the poor by combining assistance with relatively low barriers to qualification in the form of vaccination requirements and school attendance” (p. 147).

I agree with him that such programs are good candidates for building up a broad-based welfare state convergence, but I disagree with his hasty exclusion of unconditional benefits from consideration. Although he acknowledges that “relying on complex work requirement criteria work is bureaucratically complex and would undermine the streamlining effects of a negative income tax,” he nonetheless thinks that “[c]onservatives and libertarians are entirely reasonable in insisting that people only receive welfare benefits if they are unable to work” (p. 147). He therefore stops short of advocating a system of fully unconditional redistribution that “many would reasonably find unfair” to the extent it does not discriminate between the truly needy and the merely lazy (p. 147). The view is not limited to conservatives and libertarians either. Already Rawls (1988, p. 257), the father of public reason liberalism, argued that “[t]hose who are unwilling to work [such as] those who surf all day off Malibu must find a way to support themselves and would not be entitled to public funds.” Similarly, Jon Elster (1987, p. 719) pointed out that an unconditional UBI “goes against a widely accepted notion of justice: it is unfair for able-bodied people to live off the labor of others.” If such views remain common, surely Vallier is right to be skeptical that an *unconditional* UBI/NIT could ever meet the standards of public reason (except perhaps in the negative sense of uniting people to *reject* it!). So, a fully unconditional UBI/NIT would combine the (“good”) principle of universality with the (“bad”) principle of unconditionality in a way that would be “trust-increasing in some respects but trust-reducing in others” and difficult to recommend from a public reason standpoint (p. 147).

Such objections are, of course, major obstacles for the public justification of UBI. But Vallier proceeds too hastily to eliminate unconditional forms of UBI/NIT from full consideration. According to his principles, in order to fail the standards of public reason, one group of citizens needs to have strong “defeater reasons” against a particular policy that override all the other reasons for it. He defines a defeater reason as “a reason that successfully undercuts or rebuts a proposed justification for some moral, legal, or constitutional rule” (p. 38, footnote 38). One worry with such a vague definition is that it might create an unreasonably stringent institutional filter. Even a single intransigent veto, if given too much weight, could lead to a deliberative standstill where no public reason convergence can ever be reached. Thankfully, Vallier minimizes this problem by making it clear that, for something to count as a defeater reason, it is not enough that somebody is made merely *unhappy* by a given proposal; this unhappiness has to cut deep and be publicly justifiable (p. 137). But given this much, I find his claim that there exist sufficient defeater reasons against unconditional basic income unconvincing. This is true *even* if one accepts Vallier’s “convergence conception of justificatory reasons, on which reasons offered to justify coercion need not be shared or even accessible to citizens” but only sufficiently intelligibly “justified for the person who has them based on the person’s own evaluative standards” (Vallier 2014, p. 6; see also 2021, pp. 40-42). The typical objections to an unconditional UBI/NIT, while they count as *prima facie* reasons against UBI on diverse evaluative standards, in the sense that they make some citizen groups very unhappy with the policy, do not classify as “defeater” reasons against UBI *except* if they prevail in the full trial-by-fire of public justification. To settle the matter, citizen groups would have to marshal extensive evidence *for and against* UBI in a way that is fair to all sides and

entertains all the best arguments. In this way alone, will we know how each citizen group's "own evaluative standards" translate into public convergence (or divergence) in the face of real-world data.

At most, Vallier succeeds in showing that UBI will have a hard time passing through the selection filter of public reason unless it overcomes the widespread opposition against it. But we knew this already. What Vallier *fails* to do is to show that UBI will have a *harder* time in public justification than its competitors if public opinion is susceptible to ongoing learning and fact-sensitive persuasion. Indeed, popular support for UBI has been rising in the polls and is currently net favourable in several countries (UBI Center 2022). The arguments *against* unconditionality may not be quite as strong as suspected, or the arguments *for* unconditionality might be stronger than suspected, or both. We need to know more about the expected long-term effects of conditional vs. unconditional programs on outcomes that can contribute to public justification, such as corruption, rent-seeking, employment effects, economic growth, happiness, virtue, and social trust. In the next section, I offer a brief survey of some of the relevant empirical facts. Then, in the latter half of the paper, I offer some trust-relevant reasons to favour UBI from libertarian and conservative perspectives. This combined evidence will *not* be enough to show the superiority of UBI over conditional programs, but it *will* be enough to refute the claim that an unconditional UBI is an obviously unviable institutional alternative.

### 3. IN EVIDENCE WE TRUST: A BRIEF SURVEY OF THE (INCONCLUSIVE) DATA

Knowing how the principle of social insurance can and should be implemented in each institutional setting requires carefully studying the predicted and observed socioeconomic effects of experimental pilots and randomized control trials, all the while taking account of the inherent scientific limitations of such experiments (Widerquist 2005; Lehto 2018). I will not attempt to summarize decades of research but only highlight some of its key findings. First, I will look at the ambiguous empirical evidence from experiments on *conditional* and *unconditional* cash transfer programs (CCTs and UCTs) around the world to show that both have their advantages and disadvantages. Although there have been dozens of UBI experiments around the world, many of them suffer from small sample size, unrepresentativeness, poor data collection, politically motivated data interpretation, and other scientific flaws (Lehto 2018, pp. 21-33). For this reason, I limit myself to the analysis of well-documented cash transfer programs and only a handful of the most robust and influential UBI experiments to date, namely, the Finnish UBI experiment (2017-2018), the North American 1960s-1980s NIT/UBI experiments, and a few scoping meta-studies. The purpose is to see how unconditional programs may, through multiple mechanisms, contribute to and undermine social trust. The evidence, while inconclusive, suggests that unconditional benefits *may* be publicly justifiable.

CCT programs like *Bolsa Família*, which Vallier defends, have shown positive effects on reducing extreme poverty and income inequality. (Soares, Ribas, and Osório 2010, p. 186). CCTs have also been documented to achieve desirable effects on outcomes such as schooling and vaccination (Banerjee and Duflo 2011). One study estimates that "*Bolsa Família* has been effective in both increasing school attendance and decreasing dropout rates, as have other CCTs" (Soares, Ribas, and Osório 2010, p. 186). However, the same study noted little-to-no effect on infant vaccination (Ibid.). The situation is complicated by the fact that several *unconditional* cash transfer programs have shown comparable improvements in schooling, health, poverty, and inequality (Banerjee and Duflo 2011; Banerjee, Niehaus, and Suri 2019). Often, at least in the developing world, the choice of "conditionality does not seem to matter at all" (Banerjee and Duflo 2011, p. 80). There is also little evidence to support the worry that the relaxation of conditionalities leads to anti-social, immoral, or otherwise reprehensible behaviour, such as "increases in conflict or temptation good consumption" (Haushofer and Shapiro 2016, p. 37). According to UNICEF (2016, p. 1), "[e]vidence on the added value of conditions is inconclusive. In practice, the policy choice of conditionality vs unconditionality is often not as stark as the debate implies." For these reasons, "UNICEF does not actively promote the use of conditions."

Several experiments have also been conducted on the UBI/NIT family of policies. The Finnish unconditional UBI experiment (2017-2018) is notable for being one of the most robust UBI trials up to date,

wherein 2,000 randomly selected long-term unemployed citizens of Finland from across the country were given an unconditional cash payment of €560 per month for a period of two years. It produced highly interesting results for the trust debate. Although far from conclusive, they suggest that unconditional benefits may, in fact, lead to increased institutional trust and a higher optimism towards the future:

Basic income recipients experienced less stress and symptoms of depression and better cognitive functioning than the control group. In addition, the financial well-being of basic income recipients was better. They reported to be more often able to pay their bills on time. *Trust and confidence were stronger among basic income recipients. The treatment group reported that they trusted other people and social institutions more than the control group.* Moreover, they had higher confidence in their future possibilities. Basic income recipients also experienced less bureaucracy than the control group (Kangas, Jauhiainen et al. 2020, pp. 188-189, my italics).

In the experiment, *universal* benefits alone were *not enough* to achieve the positive results without the principle of unconditionality. This is shown by the fact that the experimental group reported higher trust and confidence than the control group who had access to a similar level of income supported by conditional unemployment benefits. Regarding labour market participation, “no significant employment effect was observed”, which means that the people on UBI worked roughly the same as the control group and, indeed, a bit more (p. 188). Meta-analyses of past experiments caution against generalizing these results, however, since minor-to-moderate reductions in working hours have been observed elsewhere (Widerquist 2005, pp. 68-69). Whether such expected labour market effects sow the seeds of social and institutional distrust remains a concern, but the “common argument against basic income, that it will lead to *major* reductions in employment, is not supported by the evidence” (Gibson, Hearty, and Craig 2020, p. e173; see also Kangas, Jauhiainen et al. 2020, p. 188).

Beyond the labour market effects, past basic income studies have reported “modest to strong positive effects on a number of health outcomes, including low birthweight, infant obesity, adult and child mental health, service use, and nutrition [ , linked to] reduced stress, improved parenting quality, and reduced financial strain” (Gibson, Hearty, and Craig 2020, p. e173). The Canadian guaranteed income experiment of the 1970s correlated with reductions in overall hospitalizations and mental health diagnoses (Forget 2011, p. 299, 2013). In addition, the preliminary results of a recent, small-scale UBI experiment in Stockton, California reported that “the treatment group experienced clinically and statistically significant improvements in their mental health that the control group did not” (West, Baker et al., 2020, p. 17). However, at a sample size of 125 people, the scientific value of the data is small. Thankfully, we also have data available from decades of basic income experiments. In their meta-analysis, Gibson, Hearty, and Craig (2020, p. e173) report “positive effects on child labour, health, and a wide range of structural determinants.” These kinds of outcomes are only weak proxies for trust, for sure, but there seems to be a positive correlation between improved health, reduced stress, and social trust. UBI type policies may, in fact, successfully tackle contributors to social distrust such as income inequalities, work-related stress, bureaucracy-related stress, lack of confidence in the future, and poor mental and physical health.

Lastly, unconditional benefits also have a distinct (and almost self-evident) advantage in their ability to satisfy the stringent demands of the *human rights approach* to national and international law, according to which “the enjoyment of [basic human] rights by all individuals is not conditional on the performance of certain actions or the meeting of requirements. Rather, these are inherent rights which are essential to the realisation of human dignity” (Sepúlveda and Nyst, 2012, pp. 49-50). If this is so, the unconditionality of UBI may become relatively more attractive to citizens if conditional and targeted social security schemes lead to government failures that systematically violate the citizens’ right to basic economic security (Lehto 2024, forthcoming). The evidence of the past failures of conditional programs suggests that “the imposition of conditionalities”—however modest—“has the potential to impede the enjoyment of human rights by the beneficiaries in a number of ways” (Sepúlveda and Nyst 2012, p. 48). This can result from some combina-

tion of incompetence, false expectations, and willful negligence. It is therefore not surprising that UNICEF (2016, p.1) recommends that “[u]nconditional transfers are the preferred option in humanitarian contexts.”

So, various complex ethical and economic considerations go into the public justification arguments for and against UBI. Of course, critics of UBI may still insist that *even a single person* having the ability to freeride is objectionable, in which case the fact that *most* recipients will work hard might not be enough to satisfy them. But such hardline objections seem inconclusive from the point of view of public reason since equally strident hardline arguments can be raised *in favour* of UBI as well. So, although UBI gives some people the ability to freeride, this *might* be a price that most citizen groups are willing to pay if they are convinced of some overriding (moral or economic) benefits. This is especially plausible if people factor in the fact that conditional schemes may retain *equal* or *greater* opportunities for exploitation, cheating, and freeriding (Buchanan and Congleton 1998; Lehto and Meadowcroft 2020). Many conservatives and communitarians may even come to recognize, according to their *own* private standards of evaluation, that a lot of important social contribution takes place outside of paid labour, including within the family and the civil society, so that the mere fact that some people are not engaged in wage labour does not automatically mean that they are not *contributing* to society (Murray 2016). All this begs the question, should public reason liberals promote conditionalities if the evidence is ambiguous at best? It seems me that the answer is “probably not” as long as public opinion is modestly sensitive to caring and learning about their *actual* and not merely *intended* effects on various socioeconomic outcomes. And *even if* all we care about is acquiring the consent of intransigent citizen coalitions, it is not at all clear whether the intransigent views against UBI are fact-insensitive, reasonable, intelligible, potent, and numerous enough to count as sufficient defeater reasons to undermine public convergence.

Overall, unconditional UBI/NIT might have trust-increasing properties that need to be taken seriously. These might not be enough to eliminate the strong moral aversion that many people have towards wholly unconditional programs but at least *some* of the economic and moral arguments for conditionality are weakened. Overall, the evidence supports the view that a) universal and simple benefits have proven effective at solving various social problems; that b) conditional benefits can be legitimate means of pursuing social objectives; and that c) the relaxation of conditionalities often makes little difference in poverty reduction, income inequality, work contribution, school attendance, public health, or other social outcomes. The empirical data is too messy and complex to conclusively settle the debate between conditional and unconditional benefits. But this is exactly what I wanted to prove, namely, that *both* are viable institutional alternatives whose pros and cons should be debated in the public arena. Given the tradeoffs involved, many of the “reasonable” objections to unconditionality start to appear rather... unreasonable. Institutionalizing the principle of unconditionality, although it comes with its own set of institutional hazards, and although it makes some citizen coalitions unhappy, may be a publicly justifiable foundation for a liberal democratic welfare state. It is worth emphasizing, finally, that there is no panacea, since UBI/NIT comes with its own rent-seeking opportunities and implementation challenges that make it less than ideal (Boettke and Martin 2012). Faced with radical uncertainty about the long-term consequences of the different institutional alternatives, society must carefully balance out the expected costs and moral hazards of an unconditional UBI/NIT with the expected costs and moral hazards of conditional benefit schemes.

Before concluding this section, it is worth observing that the whole *Bolsa Família* program, so admired by many, was recently scrapped by President Bolsonaro in favour of another program, *Auxílio Brasil*, that offers stricter conditionalities and “variable benefits that are connected to the academic and sports performance of beneficiaries” (Pires 2021). This highlights the fragility of even supposedly popular and successful programs. Bolsonaro’s reform has predictably exacerbated the partisan divisions in an already polarized country (Ibid.). Scrapping the benefits launched by one’s political opponents is a potent means of political warfare that undermines the possibility of political convergence and trust-building. Of course, UBI might well be *equally* fragile. All such programs require robust safeguards; and none are foolproof.

Finally, let me discuss a hypothetical scenario that further illustrates the capacity of conditionalities to deteriorate into political warfare. Vallier (p. 147) claims that the requirement to vaccinate children attached

to *Bolsa Família* was a reasonable conditionality. I tend to agree. But imagine that *Bolsa Família* is the income of last resort for significant segments of the population. I have little doubt that some form of vaccination mandates (on both children *and* adults) can become publicly justifiable in a liberal democratic state. However, if they are tied to access to basic material security, such conditionalities may become contentious, and even lead to political warfare, in the presence of widespread disagreement about what kinds of behaviours can be legitimately coerced on dissenters. Under conditionalities, however benign ones, people lack what Van Parijs (1995) dubbed “real freedom”: the power to do what one wants, including the power to make one’s own lifestyle, health, and educational choices. One of the primary ways of interference in the modern society may be the imposition of behavioural and demographic conditionalities on access to basic economic resources that people need to survive (Widerquist 2013). Republicans like Philip Pettit (2007, p. 5) have dubbed this the problem of *domination*: “If I am not assured a basic income, there will be many areas where the wealthier could interfere with me.” Indeed, such worries regarding the potential abuse of conditionality requirements as means of partisan political warfare and paternalistic overreach may coalesce into strident “defeater reasons” against conditional programs. Furthermore, conditionalities, even if acceptable to begin with, may have a tendency to balloon and multiply beyond their initial scope unless political agents are sufficiently constrained to keep their paternalistic, rent-seeking, and logrolling behaviour in check (Brennan and Buchanan 1985; Buchanan and Congleton 1998; Lehto and Meadowcroft 2020). Buchanan & Congleton (1998, p. 151) warned that “the introduction of means testing will increase rent seeking or political inefficiency as it promises to reduce, somewhat, conventional excess burdens. Classical liberals, especially, should beware of following a false god.” Similar worries extend, I believe, to many conditionalities beyond mean-testing. Buchanan himself interpreted the constitutional rule of law perspective to recommend an *unconditional* UBI scheme to “legitimize redistributive democracy and increase public trust in its institutions” (Lehto and Meadowcroft 2020, p. 156). If unconditional programs, with all their flaws, are seen as better safeguards against rent-seeking and regulatory capture by partisan citizen groups, they might become more palatable to a diverse society composed of “persons with distinct and incompatible worldviews” (p. 23).

In the next sections, I will turn to a more philosophical mode to show that Vallier misses another important strand of public reason argumentation relevant to his own concerns, aside from the empirical literature discussed above, that helps to recontextualize and strengthen the public reason case for the liberal welfare state while somewhat modifying its concrete policy recommendations towards the principle of unconditionality. I will argue that a careful study of Hayek (1982) and Murray (2016) as liberal proponents of basic income is less important for their substantive conclusions (which remain inconclusive) and more for their capacity to open up an intriguing, untapped dimension of trust-bearing public justifications for basic income that should be incorporated, according to Vallier’s own premises, into the overall balance of reasons for and against the welfare state of law.

#### 4. THE OPEN SOCIETY AND THE *SENTIMENTAL MALADAPTATION* PROBLEM

Vallier takes up the Hayekian argument that the *welfare state of law*—i.e. a redistributive state centred on the rule of law—would have epistemic and incentivizing advantages over *the welfare state of administration* that engages in “constant *state tinkering*” (p. 203). This indeed is a central pillar of Hayek’s argumentation. Vallier (pp. 13-14) also recognizes the importance for “tribal psychologies” for social trust building, which suggests the importance of the *sentimental* basis of social cooperation. In this section, I tie these two topics together in a hopefully illuminating way to show that Hayek’s argument for a *guaranteed minimum income* is intimately tied to his sociological analysis of the evolutionary transition from a Closed Society to an Open Society (“Great Society”). I will explain how, according to Hayek, the breakdown of tribal care relations contributes to *sentimental maladaptation* and therefore *social distrust*. This analysis expands the scope of public reason justifications for and against the normative desirability of basic income under the welfare state of law. That said, Hayek’s specifications of guaranteed minimum income are vague enough to be equally compatible with some conditionalities (Rallo 2019) or a fully unconditional UBI (Zwolinski 2015,

2019). So, the following discussion does not settle the conditionality debate on its own but it sheds light on the kinds of justifications that Hayekians informed by public reason liberalism can make for and against the welfare state and its manifold concrete manifestations. At the same time, this discussion unfortunately leads to some glum and unwelcome conclusions, since it suggests that “rule of law” based remedies like UBI are likely to somewhat calm, but unlikely to (alone) fully satisfy, our atavistic sentiments.

Let me start by summarizing Hayek’s argument. He claimed that biological and cultural evolution have endowed us with certain atavistic instincts and values that hinder our adaptation to life in a market society: “The values which still survive from the small end-connected groups whose coherence depended upon them, are (...) not only different from, but often incompatible with, the values which make possible the peaceful coexistence of large numbers in the Open Society” (Hayek 1982, p. 294). The argument goes back to his friend Popper (1966, p. 171) who argued that in the Open Society we tend to find a civilizational strain of “deeply rooted unhappiness” associated with the breakdown of tightknit, organic community ties. Therefore, the longing for the “organic” or “tribal” or “closed” society periodically reasserts itself. This is a case of *sentimental maladaptation*: “For although society has become abstract, the biological make-up of man has not changed much; *men have social needs which they cannot satisfy in an abstract society*” (Popper 1966, pp. 174-175, my italics). The path of progress invites a “perennial revolt against freedom” (Popper 1966, p. 188).

Several strands of contemporary research, although they come from wildly different methodological premises, independently lend some credence to the Popperian-Hayekian sentimental maladaptation hypothesis. This includes evolutionary psychology, behavioural psychology, and psychoanalysis. Even if only a portion of this research is valid, it seems incontrovertibly true that there is something inflexible and maladaptive in human psychology that has evolved to be less than fully congruent with our cultural environment. Indeed, the maladaptation problem is widely accepted in biology although the extent to which it can be legitimately extended to human psychology remains debatable. For example, in medicine, it is widely accepted that the study of our ancestral history “provides important insights into current burden of lifestyle diseases” such as diabetes and obesity (Andrews and Johnson, 2020, p. 226). Since cultural evolution outpaces biological evolution, “we are still adapting to this rapid change in our diet and environment” (Ibid., p. 234). It is hardly a stretch to suggest that our “still adapting” biological constitution, which includes our capacity for emotional bonding, judging, and trust-making, contributes to the current burden of civilizational problems, including social distrust and conflict. One does not have to accept the full research program of evolutionary psychology, with all its controversial aspects, to be persuaded by the well-documented claim that our sentiments and values, however flexible they may be (and this flexibility, too, is amply documented), *partially* reflect the social conditions of a long-gone environment of evolutionary adaptiveness (Haidt 2012; Tomasello 2014; Turchin 2016). This is compatible with saying that this very same constitution, in the right cultural environment, provides adaptive tools of *overcoming* various collective action and coordination problems. It only suggests that some problems are more intractable than others because they go against our emotional propensities, which is arguably the case in adaptation to the abstract rules of the Open Society. Already Freud (1962) argued, although with unfortunate exaggeration, that the biological sex drive, which he called the *libido* (or *Eros*), was necessarily frustrated in a civilized society. Independently, behavioural psychology has exposed certain other predictably irrational features of the human psychology, *biases and heuristics*, that exacerbate the sentimental maladaptation problem by ensuring that rational solutions often lose out to emotional or intuitive reasoning (Tversky and Kahneman, 1974, 1981). Again, one does not have to fully accept neither the behavioural psychological nor the Freudian psychoanalytic research programs to see that such arguments, if at least *partially* true, support the sentimental maladaptation hypothesis. The anthropological record, too, supports the fact that human societies have been characterized, until very recently, by tribal relations composed of close-knit networks of “mutual aid” (Kropotkin 1889) and “shared intentionality” characterized by in-group cooperation and a preference for our nearest kin over distant strangers (Tomasello 2014). The gradual evolution of the morality of the Open Society,

which is composed primarily of loosely connected strangers, appears as an unevenly “expanding circle” that is fragile on the margins and susceptible to periodic regressions (Singer 2011).

Freud (1962) may be right to claim that “civilizational uneasiness” (*das Unbehagen in der Kultur*) is not an exclusive property of modernity but a structural feature of *any* civilizational order that suppresses individual desires. Nonetheless, it seems that the Open Society is *especially* prone to the failure to satisfy our sentimental needs. So, if we wish to publicly defend the Open Society—as any liberal is tempted and even obliged to do—we face the task of placating our maladaptive sentiments or face a civilizational collapse. This requires pragmatic institutional strategies that strike a sufficient balance between placating our maladaptive sentimental needs and pushing for further Open Society reforms based on the abstract rules of justice.

Having noted the tendency of the Open Society to generate distrust and resentment towards itself, Hayek makes his most forceful case for a guaranteed minimum income:

The assurance of a certain minimum income for everyone, or a sort of floor below which nobody need fall even when he is unable to provide for himself, appears not only to be a wholly legitimate protection against a risk common to all, but *a necessary part of the Great [aka. Open] Society in which the individual no longer has specific claims on the members of the particular small group into which he was born* (Hayek 1982, p. 395, my italics).

Let me unpack this argument. Even if it is only partially correct, it should be included in the public justifications for and against the trust-bearing welfare state. Hayek claims that in the tribal society people lived in “small groups” characterized by communitarian care relations giving rise to “specific claims.” In such a society, people who fell on tough times could, on average, count on their extended family, friends, and neighbours to help them out. The need for collective social insurance arguably does not exist in the Closed Society where intragroup relations are characterized by sufficient mutual trust and mutual aid. It only arises as society transitions towards the *abstract* and *general* laws of the Open Society. Without something like basic income (whether or not this is fully unconditional), the unsatisfied sentiments of the people might lead the people to clamour for authoritarian solutions, such as centrally planned socialism, that undermine the Open Society under the banner of “social justice” (Hayek 1982, p. 226f). These are the sentimental origins of the infamous “road to serfdom” (Hayek 1944). Hayek thought that classical liberals have the duty to entertain solutions like guaranteed minimum income that are compatible with the rule of law (Hayek 1982, p. 249). In this sense, the Hayekian UBI can be publicly justifiable as a pragmatic tool of institutional adaptation that gives added security to people who have been expelled from the tribal Eden and shipwrecked across the ocean of frustrated (catallactic) expectations. However, it seems unlikely that UBI alone could suffice. Even in the best-case scenario, UBI would not *eliminate* lingering sentimental maladaptations but only *somewhat placate* the anger of the civilizational discontents by giving people enough security and freedom to *calm their anxious sentiments* and hopefully prevent a civilizational collapse.

As liberals celebrate, communitarians should panic. It is possible that having a UBI ends up facilitating, speeding up, and legitimizing the sociological breakdown of tightknit community bonds with no real replacement in sight. I share the worry that the liberal welfare state—even a Hayekian one—may end up doing a poor job at substituting for the more organic tribal relations. Perhaps this process results in a kind of a globalized monster; an abstract cybernetic order with no heart or soul. Do we want to live in an abstract market society that suppresses the natural sentiments of man and our capacity for organic communities consisting of tightknit networks of mutual aid? Such a society does not sound very conducive to trust-building in the long run. As Vallier (p. 3) emphasizes, one of the contemporary manifestations of this civilizational uneasiness is the renewed popularity of identity politics and other forms of neo-tribalism. Francis Fukuyama (2018) has argued that the push for tribal identitarianism stems from a suppressed Hegelian “struggle for recognition” that reflects the failure of the lofty promises of liberal universalism. Indeed, the allure of identity politics may appear today as the most satisfactory fix to the sentimental maladaptation



of human beings. This pessimistic vision is hard to reconcile with the more optimistic belief that our sentiments can be harmonized with the impersonal needs of social and institutional adaptation. If Hayek is right, there may be a permanent *trust deficit* in capitalist societies. Generating sustainable social trust in a complex capitalist society requires recognizing, repairing (where possible), and substituting (where necessary) for tribal bonds torn asunder by cultural evolution. Indeed, in order to guard themselves against sentimental, authoritarian backlash, pragmatic Open Societies may have to accept a thin layer of sentimental or communitarian politics that surrounds and protects the core of abstract liberal values. Is this a compromise worth making to make the Open Society sustainable? Let me put it this way: *if it takes a bit of occasional flag waving and symbolic identitarianism to secure our economic and political freedoms, is this a devil's bargain that liberals should (reluctantly) accept?*

However, in the next section, I offer an alternative approach. Perhaps what we need is *not* diluting liberal democracy with a thin layer of neotribalism but pushing even harder than before for the amplification and utilization of the *associational*, *care-relational*, and *meaning-endowing* capacities inherent within the liberal order itself? This is an argument that Vallier should be sympathetic to. Perhaps what we need, following Tocqueville and Murray, is a reemergence of the liberal civil society as a domain of shared meaningfulness, trust, and care?

## 5. CHARLES MURRAY ON BASIC INCOME AND ASSOCIATIONAL FREEDOM

Vallier (pp. 88-118) places high value in “Civil Society and Freedom of Association” as cornerstones of the liberal democratic society. Freedom of association is a foundational “publicly justified primary right” (p. 101). Since involving the government entails coercion in need of public justification, there is “a *presumption on behalf of civil society* in providing for the needs of the poor and protecting economic justice [that] can only be overcome by empirical data that strongly support the greater effectiveness of government-provided services” (p. 151, italics in the original). Murray (2016), too, prioritizes the social value of civil associations, and provides a complementary mechanism, absent in Vallier, for the transmission and reactivation of virtue and communitarian care through a restructuring of the welfare state. Like with Hayek, my concern is not so much to defend Murray’s substantive conclusion as to introduce an underappreciated justificatory (classical liberal) argument in favour of UBI that public reason liberals like Vallier, according to their own premises, should take seriously.

Murray draws on Tocqueville’s (2012, p. 902) famous assertion that one of the cornerstones of democratic self-governance is the continued practice of “the art of associating.” For Tocqueville (and also Vallier 2021, p. 95), “intellectual and moral associations are as necessary as the political and industrial ones (...), and perhaps more.” People uniting for a common cause is the lifeblood of a free society that produces a rejuvenating “circulation of sentiments and ideas.” Indeed, the “morals and intelligence of a democratic people would run no lesser dangers than their trade and industry, if the government came to take the place of associations everywhere” (Tocqueville 2012, pp. 900-901). The conservative Tocquevillean story, which is often used to criticize the welfare state, can be accused of understating the productive role of the state sector in facilitating a healthy civil society. However, the general trend towards the *institutionalization of care* is incontrovertible. Even in communitarian societies that combine an active welfare state with as strong ethos of care, like Sweden, the proportion of care work conducted in impersonal, state-affiliated institutions like elderly care facilities, hospitals, and welfare bureaucracies has continued to increase with the general expansion of the welfare state. This trend has only somewhat been mitigated by the countermovement towards humanitarian “de-institutionalization” in areas like psychiatry since the 1960s (Burrell and Trip 2011).

Murray (2016, unpagged) is no fan of the welfare state either, but he claims, paradoxically enough, that “UBI returns the stuff of life to the hands of civil society.” He writes: “The effects of the UBI on America’s civic culture are potentially transforming and, in my view, are likely to constitute the most important single contribution of the UBI.” Indeed, if it turns out that an unconditional UBI, despite its costs, is apt at “returning the stuff of life to the hands of civil society,” this might remove one of the main conservative/libertarian/

communitarian objections to UBI that Vallier, too, relies on to argue for the retention of some conditionalities. To make his case, Murray focuses on two interlinked social processes in the Tocquevillean civil society: 1) “The Inculcation of Virtue in the Next Generation” and 2) “The Dynamics of Vital Communities.” I will tackle these processes in order.

a) *The Inculcation of Virtue in the Next Generation*

Murray argues for a direct link between the inculcation of virtue and the maintenance of social trust: “A free market cannot work unless the overwhelming majority of the population practices good faith in business transactions.” If the chain of trust is an intergenerational process fueled by education and learning, a free society must inculcate and transmit virtues to its children to remain trustworthy and operational: “Allowing people to adopt any lifestyle they prefer will not work if a culture does not socialize an overwhelming majority of its children to take responsibility for their actions, to understand long-term consequences, and to exercise self-restraint.” Here, one may question how thick and substantive these shared social norms must be. It seems inappropriate to claim, as Murray does, that these social norms *must* be built upon Aristotelean or Christian ethics. The primary function of virtue, at any rate, is to install a sense of “responsibility” for oneself and one’s community: “In a society where that responsibility remains with ordinary citizens, the development of virtue in the next generation is invigorated.” On the flipside, “in a society where the responsibility for coping with human needs is consigned to bureaucracies, the development of virtue in the next generation is impeded.” There is nothing in his analysis, so far, that public reason liberals may not agree with. But Murray makes the further claim that *an unconditional UBI could contribute to the development of virtue.*

How does he reach this conclusion? His argument has six steps:

- 1) A trusting free market society requires the development of virtue.
- 2) The development of virtue requires the free exercise of self-responsibility and care for others.
- 3) A bureaucratic welfare state impedes self-responsibility and care for others.
- 4) A UBI-centric state facilitates self-responsibility and care for others.
- 5) Therefore, a UBI-centric state contributes to developing virtue.
- 6) Therefore, a UBI-centric state supports a trusting free market society.

As it stands, the argument is suggestive. But it has some weak links. Most obviously, premise (4) can be questioned. It is not at all clear whether UBI would facilitate the norms of self-reliance and community care, or, as its critics claim, the norms of state-dependence and free-riding. This is an issue that must be settled empirically. The existing evidence, as I have shown, is inconclusive. Another potential weak link lies in the logical jump from (3) to (4). Even if we grant that the bureaucratic welfare state impedes public virtues (3), this leaves the door open, not only for UBI (4), but also for some “not-quite-UBI” alternatives (4\*), including some conditional schemes. At any rate, Murray’s argument may be the *most* supportive of a fully unconditional scheme that involves giving the least power to bureaucracies over the civil society. This conclusion is strengthened if we also consider his second argument below.

b) *The Dynamics of Vital Communities*

Murray’s second Tocquevillean argument is that the welfare state undermines the strength of the “tendrils” of the civil society, which means the networks of “affiliations that draw communities together and give them vitality.” Could these be a substitute for the thick tribal care relations that, according to Hayek, are attenuated or lost in the Open Society? I believe so. For Murray, social trust requires both the creation and transmission of virtue and the capacity of that virtue to manifest in dynamic and vital civil communities. He claims that there exists a “causal connection between such apparently disparate events as the establishment of a welfare bureaucracy and the reduced likelihood (after the passage of some years) that, when some-

one dies, a neighbor will prepare a casserole for the bereaved family's dinner." In this analysis, the *socio-logical network density of care relations* is weakened by the *institutional substitution effect*, already noted by Tocqueville, between the civil society and the state. As the state domain increases, the civil domain shrinks in turn. Thus, "the logic of the social engineer" has unintended trust-eroding effects: "By hiring professional social workers to care for those most in need, it cuts off nourishment to" the care-giving and problem-solving capacities of the civil society.

The final step of Murray's argument is that UBI could be used to reverse this trend. Replacing the welfare state with UBI would decentralize power to the civil society by curtailing the power of social engineers and social workers. An obvious problem with this logic is that most proponents of UBI reject the libertarian framework of implementation. They would prefer a welfare state that combines UBI *with* social engineers and social workers. Since democratic deliberation is unlikely to lead to a libertarian UBI, the real question is, could a compromise UBI scheme that is married to a modest welfare state function as an improvement over the *status quo*? I think the answer is still 'yes.' Public reason liberals can acknowledge, as Vallier does, that a free society can accommodate a broad range of welfare state programs and regulations aside from basic income itself as long as these conform to the rule of law. Moving *towards* unconditionality and *towards* the civil society may well be a significant move in the right direction, *even if* the welfare state were to retain some of its meddlesome powers. Murray's stringent libertarianism is likely to fail the test of public justification, but it is possible to accommodate his Tocquevillian argument into a moderate welfare state scheme that goes some way (if not *all the way*) towards improving the virtue-transmitting and network-generating properties of the civil society. Such a scheme may become publicly justifiable, not only to libertarians and conservatives but also to social democrats and progressives, although the *precise* point of convergent public reason equilibrium, I believe, cannot be known *a priori*.

If Murray is correct in his optimistic estimate that a highly libertarian UBI can play a positive role in the renaissance of civil associations, it may be publicly justifiable:

These are my reasons for thinking that the effects of the UBI on civic culture are likely to be transforming. The grant will put in each individual's hands the means to take care of himself under ordinary circumstances. But some will not take care of themselves. (...) The responses to the needs posed by these cases will be as flexible as their causes. (...) *Nothing stands in the way of the restoration of networks that are appropriate and generous, and that actually solve problems, except the will to put the responsibility for those problems back in our hands*" (Murray 2016, my italics).

If Murray is right, a UBI that curtails the administrative state can plausibly contribute to more responsible, self-reliant, caring, and trusting citizenry. Indeed, cultivating a dynamic civil society with UBI might be a good remedy for the Hayekian problem of sentimental maladaptation. UBI could be justified either as a *permanent institution* of the Open Society or, at least, as a *transitional measure* that helps society move *towards* increased openness. This suggests that schemes that give more *unconditional* power (and real freedom) to the self-governing communities themselves have some Tocquevillian advantages. At the same time, the results are unpredictable and uncertain. Civil associations may equally contribute to the *erosion* of social trust, "for example in building isolated associations that encourage people to distrust outsiders" (p. 103). Furthermore, UBI might have to be implemented in a less libertarian fashion than what Murray proposes. This would make it more politically palatable but also less transformative of the civil society. However, even in a compromised form, a UBI-centric welfare state might transmit virtue and trust *better* than an administrative welfare state. Since Vallier, too, wants to move *towards* such a scheme, up to a point, he can comfortably come along for the ride. What is important is that *moving towards* simple and universal benefits (with minimal, or zero, conditionalities) can be made, under some assumptions, publicly justifiable.

## 6. CONCLUSION

When Hobbes laid the first foundations of social contract theory, people were so divided on politics that they could at best hope to agree not to kill each other. Today, with some luck and patience, people can sometimes agree on, or at least tolerate, a lot more. A core insight of public reason liberalism is that even people who have deep and intractable disagreements may come to agree on a basic rights structure. Vallier has convincingly shown that this may include, among other things, a system of universal, simple, and nondiscriminatory social insurance. His Hayekian institutional recommendation for a *welfare state of law* is appealing to many liberal scholars who care about agreement-in-diversity. The contemporary literature on basic income experiments lends credence to the contention that “we should probably want to err on the side of universal welfare programs to help the poor and marginalized” (p. 143). Ample evidence, both empirical and theoretical, demonstrates the beneficial effects of minimally conditional programs like *Social Security* and *Bolsa Família* and fully unconditional programs like *Universal Basic Income* and the *Negative Income Tax*. However, whether public reason liberals should prefer *conditionality* or *unconditionality* remains unresolved.

I have shown that conditional benefits may be easier than UBI to justify to a public whose members have strong moral and economic objections to people freeriding off the labour of others. They are therefore better at accommodating the widespread objection that it is morally wrong and/or economically unwise to give money to the “undeserving” poor. Economically speaking, they often require lower taxes than a full-blown UBI. However, there is only weak and contradictory evidence that conditional benefits are better at tackling unemployment or minimizing cheating and rent-seeking opportunities than unconditional benefits. The *economic* objections to unconditionality appear less compelling than the *moralizing* ones. Excluding the undeserving poor from access to basic income may be hard to publicly justify if unconditionality does not impose significant economic costs (or externalities) on the broader society. One of the main objections to unconditionality is thereby seriously weakened. This may facilitate public reason convergence around UBI on the basic liberal principle of “live and let live.”

Unconditional programs have some distinct advantages as well. Some people may have strong reasons in favour of unconditional benefits that are able to effectively support the real freedom of the recipients, strengthen the rule of law, revitalize bottom-up civil society engagements, and eliminate contentious partisan struggles over the scope of “acceptable” conditionalities. The data from the Finnish, Canadian, and other basic income studies seem to suggest that unconditional programs might produce beneficial effects on institutional trust, faith in the future, and other crucial socioeconomic metrics that are similar to or greater than those of conditional programs. Giving people “free money” may correlate with elevated levels of social and institutional trust. Picking a program like Brazilian *Bolsa Família* or the U.S. *Social Security* may be a good starting point for building public convergence. However, unconditional programs may end up appealing equally well, or even better, to multiple diverse viewpoints. I therefore tentatively agree with Buchanan and Congleton’s (1998, p. 151) assessment of conditional and means-tested benefits as a “false god” that even the most intransigent sceptic groups, including libertarians and conservatives, should be persuadable, under some empirical assumptions, to abandon, without having to change their basic principles. However, maintaining an open mind is a virtue in this complex and dynamic world. A full and final judgment remains as elusive as ever.

In the second half of my paper, I turned to more philosophical themes that public reason liberals like Vallier who place great value on the liberal rules of the Open Society and the trust-bearing attributes of the civil society should be motivated to incorporate into their comprehensive analysis according to their own standards of justification. First, I showed that the problem of *sentimental maladaptation* identified by Popper and Hayek, which is supported by several strands of contemporary psychology, remains an underappreciated problem for welfare state governance. Hayek’s attempt at a rule-of-law welfare state was partially an attempt to overcome this problem. Programs like UBI or *Bolsa Família* may be cynically seen as ways to bribe the consent of the poor. And yet, I suggest that something more is required than giving people ac-

cess to material resources. The problem is that it is not clear how well governments can *ever* cater to man's search for meaning. Governments that have tried to impose a more substantive moral order have done so at great cost to human freedom. The psychotherapist Viktor Frankl (2000, pp. 84-85) famously argued that finding a sense of purposefulness was the key to survival in the Nazi concentration camps and, by extension, life in general: "Woe to him who saw no more sense in his life, no aim, no purpose, and therefore no point in carrying on." One part of the solution might lie in the promotion of some forms of tribal collectivism in the form of non-virulent nationalism, such as semi-harmless flag-waving, to set some other "sentimental" side constraints on the abstract constitutional order of the Open Society. A sense of tribal unity encoded in shared symbolism may help to forestall political polarization. But this has its obvious downsides. I have therefore argued, in an appeal to Vallier's own liberal motivations, that it may be preferable to follow the Murray/Tocqueville route of amplifying the powers of the civil society to generate bottom-up networks of care, trust, and meaning. The welfare state, despite its many contributions to the continued advancement of human flourishing, threatens to instill habits of subservience and helplessness that are liable, over time, to erode "the custom of associating in ordinary life" that is our best means of moral and spiritual advancement (Tocqueville, 2012, p. 898). The enforcement of benefit conditionalities, even modest ones, contains an ineradicable element of paternalism that erodes the habit and custom of self-governance (Murray 2016). If this is even *approximately* right, let alone *substantially* so, a dynamic and evolutionary Tocquevillean civil society may require an *unconditional* basic income.

Combining Hayek and Murray, it seems to me that the only sustainable solution to the *sentimental maladaptation* problem of the Open Society lies in facilitating the Tocquevillean tendrils of civil association and self-governance within which individual, group, and collective meaningfulness can spontaneously grow beyond such materialistic aims as "utility maximization" or "GDP growth." This is the only way to make the Open Society, with all its dangers and flaws, sentimentally palatable to the *demos*. Beyond bread and circuses, and beyond sanitized flag-waving, the welfare state needs to offer a robust "associational" platform for moral and spiritual discovery. This is what Tocqueville and Murray argue for. A good welfare state not only takes care of the poor and the needy but does so in a way that encourages continuous moral and spiritual learning through the facilitation of the bottom-up experimentation with, and discovery of, new varieties of human flourishing. Such a society would combine the public provision of public goods, careful regulations, and income redistribution with the encouragement of associational freedom and economic freedom. It would encourage meaningfulness without imposing a uniform moral order; it would therefore be somewhat "communitarian" in its aims but "liberal" in its means. It would be agnostic about whether meaningfulness is best sought in religious or secular contexts (Vallier 2014). It would update the evolutionary liberalism that Hayek and Popper cultivated. It would also meet, I believe, the exacting standards of Vallier's variety of public reason liberalism. Such a society would not only provide the abstract skeleton of a good society but also the bloodstreams, sinews, and nerve endings that generate and rejuvenate organic bonds of community care and trust.

## NOTES

- 1 Unless otherwise stated, pagination refers to this work.

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## Trust and the Right of Association

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Adam Smith's *Wealth of Nations* is today often regarded as one of the founding texts of modern liberalism. It is also famous as a founding text of modern capitalism, and in this capacity it is sometimes taken to be a defense of selfish individualism. Those who support such a reading often turn for evidence to one of the most-quoted passages in the *Wealth of Nations*: "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages" (Smith 1983, 1.2.2, pp. 26-27). The lesson seems clear: liberal society is essentially a dogfight, a world of hard-nosed self-interest with no place for sappy sentimentalism.

The only problem with this reading is that it is resisted on a great number of the thousand-plus pages Smith published during his lifetime. In fact it's even countered on the same page that contains the lines quoted above. Smith sets up these lines by letting us into what he thinks is the real dynamic at work in commercial exchange. This dynamic isn't one of winners and losers, self-interested tough guys exploiting tender-hearted types. The real underlying dynamic is something quite different: "Give me that which I want, and you shall have this which you want" (Smith 1983, 1.2.2, p. 26). In Smith's vision commercial society isn't merely a world of selfish exploitation but one of mutual gains—a world in which both parties can and do win.

One of the great merits of Kevin Vallier's important book is to show us the degree to which we've lost sight of this vision of liberal society. Our polarized age is obsessed with winning and losing, and indeed tends to see winning and losing in strictly zero-sum terms: for any one individual or group to gain ground, we assume, they must necessarily do so at the expense of another individual or group. This isn't the place to try to document the degree to which this perspective now shapes debates on fundamental issues in American politics. For now it's sufficient to say that one of Vallier's most important contributions, I think, is his appreciation of this phenomenon and its deleterious effects on our moral and political culture. And on this, he couldn't be clearer. "Democratic-norm erosion," he writes, "is both a cause and an effect of the growing sense that democratic politics is a struggle for domination, a thinly veiled war between political factions trying to conquer one another" (Vallier 2021, p. 20). Breaking this cycle consequent to the obsession with winning and losing, domination and defeat, that currently dominates our approach to electoral democ-



racy may well be, this reader suspects, the single healthiest thing we could do for the long-term future of American electoral democracy.

That said, Vallier's *Trust in a Polarized Age* is less a book about polarization than it is a book about trust more generally. And as a book about trust it can be read as a very useful and welcome contribution to the same project in which Smith himself was engaged. To see this we need to return briefly to Smith's famous passage. Here Smith aims to show that not only is liberal commercial society a world of mutual gains, it is also a world that depends on trust. Smith introduces this idea in his explanation of why we enter into exchange relations with others in the first place. Human beings, he explains, are self-interested, yet we are not self-sufficient. "Man has almost constant occasion for the help of his brethren," he tells us, for "in civilized society he stands at all times in need of the cooperation and assistance of great multitudes." In short: we need others simply to survive, and it is this that drives us to trade.

But what really matters here is not *why* we trade but *who* we trade with. In Smith's story, it's famously "the butcher" and "the brewer" and "the baker." And Smith's choice of words here is no accident. He could well have referred to "a butcher" and "a brewer" and "a baker"—and indeed if we re-read the passage and substitute "a" for "the," it arguably reads more naturally. But as one of my professors in graduate school pointed out to us, Smith is in fact presuming a specific type of trading environment here: not cities filled with multiple butchers and brewers and bakers from which we can choose, but a more bounded form of community in which the market is extended just far enough to admit of the specialization sufficient to employ one man in each of these trades. One could even go further. In calling our attention to "the" butcher, Smith invites us to imagine a specific butcher who we know: the butcher who we see daily or near-daily, in an extensively iterated trading sequence. To trade like this of course is to exist in a relationship of trust; we don't go back day after day to the butcher who sells us tainted meat—and that butcher of course won't long remain in business.

Smith's lesson from all of this is clear: self-interest isn't enough to sustain trading societies and institutions; trust is needed as well. And reading Vallier's study this crucial Smithian lesson came to mind again and again. For to my mind one of the most important and most convincing claims that Vallier makes is that trust and the institutions of liberal society exist in a virtuous circle: liberal institutions are not only founded on trust, but also when properly organized, liberal institutions and the freedoms and rights they support also encourage the growth of trust. Herein lies what I take to be Vallier's core thesis, one I think that Smith would nod in approval with.

That said, the key question for both Smith and Vallier concerns not how trust-based institutions *ought* to work; the key question for us is what to do when the system goes off the rails. Put in terms of Vallier's key concept, the key question becomes one of what can be done to re-right institutions in periods when relations of trust have broken down. And on this explicitly normative front Vallier may have more to offer to us than Smith himself. Smith after all wrote in the third quarter of the eighteenth century. And while he deserves a great deal of credit for anticipating many of the deleterious effects of some of the market processes he championed (case in point: his remarkable study of the "mental mutilation" consequent to repetitive specialized labor in the fifth book of the *Wealth of Nations*), we'd be foolish to seek in Smith's pages ready-made fixes to our contemporary pathologies. But here is where Vallier's comparative advantage lies, for where both Smith and Vallier aim to diagnose the ills consequent to the breakdown of trust, it's to Vallier that we need to look for a remedy suited to our world. And Vallier is especially poised to provide such a remedy given his realism. Throughout the book, Vallier resists ideal theory approaches, choosing rather to ground his normative recommendations in the "extensive empirical literatures on trust in the social sciences" which are most concerned with "the creation and maintenance of social and political trust in the real world" (Vallier 2021, p. 49). Indeed one of the most impressive features of his study is Vallier's thorough review of these literatures and his evident familiarity with them.

What then is the remedy Vallier offers? His focus on this normative front concerns what he calls "trust-increasing liberal rights practices," and here his key claim is that the surest route to the maximization of trust in the institutions of liberal society lies in a commitment to "protect liberal rights and encourage their

exercise” (Vallier 2021, pp. 9-10). This is a clear thesis and much of it seems intuitively defensible. Surely a clear mark of a trusting society is the existence of rights and freedoms that presume that individuals in fact can be trusted with the exercise of their rights and freedoms. That said, we need to distinguish between *guarantees* of rights and freedoms and the *exercise* of rights and freedoms. The key idea here is that there is a difference between the legal and constitutional protections which ensure that citizens of liberal societies have the opportunity to enjoy such freedoms, and the active uses of such freedoms by citizens. Vallier himself is aware of this distinction, and even notes in the line just quoted that for trust-increasing rights and freedoms to work, we need both to “protect” *and* to “encourage” them. But I worry that while our society still largely maintains its traditional legal guarantees of rights, our will to operationalize certain of our rights and freedoms may be waning. And this in turn leads me to wonder about the degree to which our failure to fully actualize rights in practice may be responsible for at least part of the crisis in trust that Vallier so convincingly documents.

In the remainder of this symposium contribution, I want to focus on a specific right central to Vallier’s account (and itself the central focus of chapter three) which seems to fall into this trap: freedom of association. This is arguably, in the first instance, a political right rather than an economic right, and while Vallier’s treatment of economic rights in the last half of the book is a key part of his larger project, for reasons of both space and expertise I will leave treatment of these to other contributors. In what follows I want to hone in on the right of association and try to shed light on the way in which it is (and perhaps more to the point, is not) being operationalized today. And to this end, I want specifically to focus on how its exercise and non-exercise is presently playing out in one of the most important and familiar institutions of our society, colleges and universities. Vallier himself lists colleges and universities as important forms of “civic associations” in a liberal society (Vallier 2021, p. 97), and this fact—together with the fact that these institutions are likely to be very familiar to many readers of this symposium—make them an appropriate focus.

What then is the current state of rights and freedoms on today’s campuses? One obvious approach to answering this question immediately presents itself. Hardly a day goes by after all that doesn’t find some sort of media or social media frenzy on the latest campus scandal du jour, whether it be faculty members fired for what they’ve written or students aggrieved by visiting lecturers. But whatever position one takes on these cases, for my purposes what matters is simply that these cases—and indeed a great majority of the debate over rights on campus—concerns one specific right: freedom of speech. This is of course a debate worth having. My worry is that our near-exclusive focus on questions of freedom of speech runs the risk of crowding out attention to other important freedoms and rights, and specifically the freedom of association that Vallier is himself keenly interested in. And this matters because when we attend to the question of freedom of association on American campuses, we can, I think, get some sense as to why the difference between the existence of a right and the use of a right matters so much in a trust-based society.

With regard then to the existence of freedom of association at American campuses, I think it’s probably fair to say that this freedom is for all intents and purposes universal and uncontroversial. All I mean by this is that while various colleges and universities often and obviously enact regulations on speech, I’m not aware of comparable restrictions on basic freedoms of movement and association on university campuses. For while colleges and universities clearly have obligations to regulate access to spaces for reasons of public safety (say fire codes) or practical management of limited resources (say classroom allocations), it’s difficult to imagine a university enacting a discriminatory policy that sought to use certain protected characteristics as grounds to regulate the ways in which members of the campus community access public spaces on campus or associate with each other. In this sense at least, freedom of association is universal and maximal for members of a university community. The problem is that the existence of this freedom far outpaces the actual use of this freedom. My experience on several campuses is that for all their genuine commitment to freedom of association, in practice campuses often replicate our society’s more general encouragement for us—as Vallier puts it—to “culturally sort ourselves into different social silos” (Vallier 2021, p. 8).

I suspect that the reasons for this are many and complex. But whatever explains it, it seems to me to be a cause for significant concern, and indeed for reasons Vallier helpfully develops. In part this is because a

failure to access these freedoms deprives students (and faculty) of the immensely valuable and potentially life-changing impact that encountering genuine difference can make. University campuses are in fact remarkably well-set up to be rare and much-needed environments for “promoting contact between diverse persons” (to use another of Vallier’s phrases) and if they fail to maximize their remarkable potential on this front, we do a real disservice to communities both within and beyond the university (Vallier 2021, p. 17). I think Vallier is quite right to say that trust in genuinely pluralistic democracies depends on the capacity of its citizens to develop “cross-cutting identities” (Vallier 2021, p. 4) that allow us to discover and together inhabit common ground, and I yet remain optimistic that universities might yet be capable of serving as spaces for the experiences this requires. But again, right now there is reason to think that this might not always be happening to the degree that we need it to, seen from the standpoint of social trust.

In any case, the issue here isn’t whether the freedom exists, but whether and how it is being used: and, more specifically, whether and how we have provided the holder of this freedom with the *encouragement to use* this freedom. Given this, I think there’s a case to be made for some additional active encouragement. Happily I see on my own campus some of this happening already in its support for various sorts of retreats and dinners that provide opportunities for students to exercise their freedoms of association that allow them to have the sort of encounters with diverse modes of thinking and being that can lead to real trust. Vallier is right to be worried about the possible use of coercion as we try to reform our institutions (Vallier 2021, p. 104). But given the magnitude of the problems that we face amidst our current breakdown of trust, there is I think ample justification for the expanded use of minimally-coercive incentives such as good meals and fun trips that are entirely voluntary. And here may lie my only real disagreement of any substance with Vallier’s argument. For I suspect that if we are going to maximize the promise of our institutions, guaranteeing the existence of rights isn’t going to be enough. Incentivizing the use of these rights is also warranted.

And this leads the final point I’d like to make with regard to Vallier’s analysis. My decision to focus on universities here was a conscious one. A not-insignificant part of the public today worries that our universities might be beyond redemption. This at any rate is the rhetoric often accompanying concerns voiced by various political constituencies about universities today. And interestingly these complaints about universities often parallel broader complaints about the state of modern liberalism. At various points in his book, Vallier confronts this anti-liberal view that there is an “inherent corruption” within modern liberalism—a view he rejects (Vallier 2021, p. 10). I think he’s right to reject this view, and indeed to reject it for the reason he gives: namely that we do better to try to reform the systems we have rather than try to replace them root and branch. Vallier, I think, is right to say that in fact “distrust and partisan divergence can be addressed through the liberal institutions we have in place” (Vallier 2021, p. 18). Of no institution is this more true, I think, than the American university, which for all its faults still provides a unique and precious freedom that we’d do well to try to save—and indeed to try to maximize—for the sake of the future well-being of our democracy.

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## Fault Lines and Fractures in Political Communities

ALEX MOTCHOULSKI

### I. INTRODUCTION

Kevin Vallier's *Trust in a Polarized Age*<sup>1</sup> is an impressive book that speaks to what many regard as one of the most pressing political problems of our time: the pervasiveness of social distrust and political polarization. In many Western states, politics seems to have devolved into a divisive conflict. The very first three pages suffice for Vallier to paint a grim picture of the situation in the United States: Americans trust their institutions less; Americans trust one another less; and Americans hate members of the opposing political more than they have in any recent time (pp. 1-3). Vallier proposes to address this problem, and the heart of his proposal is the claim that liberal institutions can reconcile political conflict and that compliance with such institutions can lead to greater trust among individuals. In the course of defending this core liberal proposal, Vallier draws on an impressive body of philosophical and social scientific work, developing his solution in a way that most any reader will profit from engaging with. The contribution to theories of public reason in philosophy alone is a valuable advancement in that field, and scholars working in the growing interdisciplinary research program of politics, philosophy, and economics ("PPE") would benefit greatly from studying Vallier's book as a model of that approach.

The basic message in Vallier's book is one of hope. With the right institutions, and with the right reforms, we need not engage in a war-like politic. My aim in the arguments to follow will not be challenge the substance of Vallier's argument—I will take for granted that the kinds of reforms he suggests could restore social trust, and indeed I would welcome such a result if it were true. Rather, my aim is to challenge the range of applicability of his proposed solution. Granting that the solutions Vallier identifies can be effective means of restoring social trust, we may still ask: under what social and political conditions will the solution will be effective? Even if politic need not be war, are there any circumstances where it cannot be anything but war? I will defend an answer in the affirmative—there seem to be some conditions under which political divisions may run too deep to be reconciled.

I should be careful to note that my aim here is only to explore the limits of the applicability of Vallier's solution to the problem of social distrust. I do not mean to claim that any actual political communities, such as those in the US or West that Vallier focuses on, are so fractured that restoring them is impossible, and frankly, I hope that this is not the

case. But, nevertheless, the devolution of politics into an irreconcilable state of war seems to me a real possibility that we must confront.

Section II begins with an examination of pertinent arguments in Vallier's rich book. The remainder of this essay will then be spent developing the conditions under which Vallier's proposed solution to the problem of distrust might not be successful. Section III argues that communities can become divided when members disagree about what rules are, to use Vallier's term of art, central moral rules. Section IV identifies another mechanism that can lead to division; when individuals disagree too much about morality, they may come to regard one another as morally incompetent. These two sections are meant to identify fault lines in political community; they show some mechanisms by which political communities could come to be divided. Section V examines the state of affairs that obtains when fault lines widen into more pervasive divisions. I argue that when members of communities have conclusive reason to distrust one another, Vallier's proposed mechanisms for restoring trust are unlikely to be successful. Section VI concludes.

## II. RESTORING TRUST IN POLITICAL COMMUNITIES

The central problem that Vallier takes up in *Trust in a Polarized Age* concerns the fact that politics can devolve into a *state of war*, which he defines as states of affairs characterized by social conditions with low social trust (trust in other citizens) and low political trust (trust in institutions) (p. 20). The solution to the problem of politics-as-war that Vallier defends is what I will call the *liberal institutional solution*: liberal institutions create and sustain the conditions for social and political trust within diverse communities (pp. 20 and 35-40, though the argument for liberal institutions is spread throughout the book).

Diverse political communities are the primary focus of Vallier's analysis. On the face of it, diverse communities seem ill-suited for creating and sustaining high levels of social and political trust. In such communities, individuals will disagree about many moral matters. The moral and ethical life of another may often look to one as unquestionably wrong, corrupt, or misguided. It becomes difficult to sustain attitudes of trust when we think others are deeply immoral (p. 21). Consequently, it seems natural to regard diverse communities as breeding grounds for distrust.

The line of reasoning in the previous paragraph, Vallier contends, is a consequence of the illusion of culpable disagreement. Holding those who disagree with you to be morally flawed is a failure to take account of the fact of evaluative pluralism—"that sincere and informed people can nonculpably disagree about many important matters, including what the good life consists in and what justice requires" (Ibid.). Once we acknowledge the fact of evaluative pluralism, then we see that we cannot sustain the attitudes and perspectives that make up the illusion of culpable disagreement. Accordingly, the possibility of achieving an appealing degree of social and political trust is not undermined in the context of diverse political communities. So, how might we cultivate social and political trust?

Answering that question naturally requires an account of what trust is. Trust, Vallier claims, is a three-place relation of the form: individual A trusts individual B to do some action *F* (p. 23). Trust involves some kind of dependence, so B's doing *F* must be important for some of A's goals. But, when I trust you to do something for me, it is quite different from the attitude I have when I expect or depend on, say, a train arriving on time (Ibid.). I depend on, but do not trust, the train because we can only trust individuals that are participants in a shared moral practice that we regard as moral agents (Ibid.). But mere recognition of agency will not suffice. Even the selfish or the inconsiderate can be moral agents, and it would be hard to trust individuals who reliably defer to their self-interest instead of acting on relevant moral considerations. So, lastly, in order for A to trust B to *F*, it must be the case that A believes that B normally acts on broadly moral considerations of an appropriate degree of significance (p. 24).

One kind of trust that Vallier is especially concerned with, which will also be my focus throughout, is social trust. *Social trust* is trust that others will follow what Vallier calls central moral rules. Vallier presents certain basic moral obligations as central moral rules, such as duties: not to harm without cause; not to kill the innocent; to keep promises; to show gratitude; and to aid the impoverished (p. 24). So, "one socially

trusts when she thinks other moral agents will tend to comply with the publicly recognized moral rules that she needs to rely on in her pursuit of her goals” (Ibid.).<sup>2</sup>

Bringing these ideas together, we have that for someone to be socially trustworthy, you need to believe that they will act on public moral considerations of an appropriate significance. What kinds of considerations are suitable for grounding trust? Vallier argues that acting on the basis of intelligible reasons is what fits the bill (p. 26). Some reason *r* to *F* is intelligible to members of a given community just in case there is some member of the community *A* for whom *r* is a reason to *F* and other members of the community would know that *r* is a reason for *A* to *F* if they were made to know of *A*’s broader evaluative commitments (for some further idealizing conditions, see pp. 27-9). Seeing an individual act on intelligible reasons is evidence that she is responding to what she should regard as morally significant considerations in the determination of her conduct. And trusting individuals just consists of regarding them as agents who respond to the appropriate kinds of reasons.

These preceding points set the groundwork for the argument defending the liberal institutional solution that takes up the majority of the book. Those arguments follow the same general pattern. Each chapter after the second is spent studying a particular liberal institution in some detail, with the discussion covering the institutions of free civil society, the market, the welfare state, and democratic constitutionalism. In each case, Vallier reviews empirical evidence which supports the claim that the kind of institution in question creates trust for the right reasons, and he follows the review with a defense of the claim that the institution is publicly justified to members of diverse communities. Some rule or rules are publicly justified just when there is no member of the relevant community who has reason to favor the absence of those rules over the rules themselves. The idea is that only those rules that all persons have reason to favor over a state of liberty (where there are no public rules that individuals can hold one another accountable to complying with) are publicly justified. Notice that when some rules are publicly justified, individuals will always have a reason to comply with them. Observing individuals complying with publicly justified rules thus provides individuals with evidence of trustworthiness because such compliance reflects responsiveness to intelligible reasons. So, if liberal institutions are publicly justified, then they can become touchstones of trustworthiness.

In what follows, I will not contend with Vallier’s defense of liberal institutions. Rather, my aim will be the challenge the range of applicability of his liberal institutional solution. Just how divided can society be before restoring trust becomes a lost cause? I will first consider some mechanisms that might engender distrust in diverse communities. These mechanisms identify fault lines in political communities; while there is no guarantee that the distrust-creating process will take hold, when social conditions are as described in the following two sections, there is the possibility of widening divisions in society.

### III. UNCOMMON TOUCHSTONES OF TRUSTWORTHINESS

The first way in which diverse social conditions can give rise to distrust on Vallier’s model will have to do with the role of central moral rules. These are, recall, publicly recognized moral norms that are believed to be correct, compliance with which serves as evidence of trustworthiness. “Social trust involves trusting others to do *what we collectively regard as the right thing to do*” (p. 24, emphasis added). As mentioned above, the examples of central moral rules that Vallier provides are rather thin moral requirements, such as avoiding harming others without cause.

Relying on such thin moral requirements is an appealing move for Vallier. If the central moral rules are thin moral requirements that most any reasonable person would accept, then they will be rather effective touchstones of trustworthiness in a liberal society. These rules are unique in both being widely held and in being especially weighty sources of motivation. Most members of the population are likely disposed to comply with them and to expect others to comply with them as well.

Notice, however, that crucial to Vallier’s argument is that central rules do not merely *contain* these thin precepts. Rather, for an appealing trust-sustaining equilibrium to obtain, central moral rules must be *exclusively coextensive* with those thin precepts. Failure to comply with a central moral rule, after all, is a

sign of being untrustworthy. So, if some share of the populations comes to hold that certain substantive unshared moral precepts are among the central moral rules, then we might expect distrust-creating behavior to emerge instead.

Let's consider a simple illustration of how this distrust-generating dynamic will function. Suppose we have a world with two moral norms R and Q. R is a thin precept that most everyone accepts, but Q is a substantive rule which, in a diverse society, only some accept. Many members of that society will accordingly have conclusive reason to act on Q. As a result, some members of the population who accept Q will observe some others failing to act on Q. The Q-holders not only believe in Q, they regard it to be a central moral rule. Since social trust is grounded in observing individuals complying with central moral rules, those who accept Q have reason to become less trusting of those who do not comply with Q, even if those who do not comply do so on the basis of conclusive reasons to reject such compliance.

If we add one more claim, we can reach a result of full distrust among members of that population. If we grant the premise that there is generally reciprocity of distrust, that seeing another be untrustworthy disposes one to act in untrustworthy ways in turn, then the mechanism just sketched can lead to a full breakdown of social trust. Those who accept Q see others failing to comply with Q, which leads them to reduce their trust in others. Consequently, those who accept Q might react by acting in untrustworthy ways, which leads others to reduce their trust in them. Perhaps the individuals who accept Q think to themselves, "they aren't following some basic moral rules, so why should I?" If this thought leads Q-holders to be non-compliant with certain other basic moral rules, then other members of society will trust the Q-holders less, perhaps leading them (the non-Q-holders) to deviate from other (non-Q) central moral rules themselves. In this case, we have the makings of an escalating spiral of distrust and divisive social conditions. Q-holders may continue to trust Q-holders while those who reject Q will be distrusted by them and will distrust the Q-holders in turn.

This conclusion critically depends on some persons treating a substantive moral rule that is not the object of widespread agreement as a central moral rule. This strikes me as clearly possible. Examples abound throughout human history of situations where norms that could not be the object of public agreement were treated as central moral norms. Two examples come immediately to mind: Victorian social morality and Jim Crow American South social morality. Both social settings contained what appear to be central moral norms that were oppressive for some group (and, consequently, unjustifiable to them). Failure to comply with those oppressive norms carried with it the kinds of social penalties (and often severe mistreatment) that attend violations of central norms. While such baldly unjust norms might not be included among central norms today, the fact that publicly unjustifiable rules have been central moral rules in the past provides us with reason to hold that it is possible for publicly unjustified moral rules to partially constitute central moral rules today.

So, it is not enough to say that liberal institutions are publicly justified and that if they were touchstones of social trust, they would result in a trust-sustaining equilibrium. We also need an account of how liberal institutions and the norms that make them up could come to be central moral rules in the first place, and moreover, how they could come to be the *only* central moral rules. If among central moral rules were some rules that were not publicly justified, then some members of the relevant community will not comply with them, thus showing the seeds of distrust in that community.

#### IV. DISAGREEMENT AND DISTRUST

Another way in which diverse social conditions can give rise to distrust has to do with the fact that individuals disagree about substantive moral demands. Naturally, we run up against Vallier's rejection of the illusion of culpable disagreement.<sup>3</sup> I will argue that diverse individuals can have evidence that others are incompetent moral agents, and that, consequently, they ought not to trust them. The conditions for distrust are not a consequence of merely neglecting the possibility of evaluative pluralism, but rather the fact that on some moral views, certain rules or principles must be regarded as relatively simple to understand. When the

behavior of others fails to comply with what one regards as a simple moral precept, then one has evidence that others are morally incompetent because they cannot grasp even basic or rudimentary moral claims.

The first claim of the argument just sketched is that assessment of competency plays some role in the determination of trust. People who are competent at some activity normally do that activity well or correctly. A competent doctor will successfully treat her patients, a competent philosopher will argue well, and a competent moral agent will respond to the relevant reasons in the right way. When one shows oneself to be a morally incompetent agent, then that is a ground for distrusting them. The rub is that I might think that you are an incompetent moral agent because your conception of moral norms is far too different from my own.

There are many ways in which one can provide others with evidence that one is incompetent. Important to distinguish for our purposes are what I will call *content-based competency assessments*. The idea is straightforward: I cannot regard you as competent in some context if you fail to understand, or do not know, relatively basic concepts, information, or skills pertinent to that context. In the context of mathematics, if you demonstrate an inability to understand addition, I cannot trust you to perform calculations. Or consider drivers whose regular violation of the rules of the road belies a misunderstanding of those rules—upon observation of such violations, observers will be hard-pressed to trust those individuals qua drivers. Failure to grasp knowledge or skills that are regarded as basic or rudimentary often provides a compelling reason to distrust someone in the relevant context.

Reliance on content-based competency assessment within the context of a diverse society is another way in which social conditions can be such that the liberal institutional solution is unsuccessful. Diverse individuals who disagree about morality may come to regard different reasons or precepts as relatively basic, obvious, or possessing dispositive weight. This will lead them to rely on different standards for content-based competency assessments. And, if others do not accept or abide by those standards, then you will come to regard them as untrustworthy on account of the fact that belief in the moral view that you accept requires regarding those reasons as basic or obvious. In a diverse society where individuals substantively disagree about the content of morality, it seems almost inevitable that some fail to satisfy one's standards of content-based competency assessment. Consequently, individuals might widely regard one another as untrustworthy.

As I mentioned above, I do not think that the preceding argument relies on the illusion of culpable disagreement. This is because on some moral views, you must regard certain reasons as basic. That commitment simply comes with the territory of regarding your moral view as true or correct. To take one example, perfectionists think that certain kinds of activities are obviously conducive to human flourishing. If you think perfectionism is true, odds are that you think that there are some circumstances in individual lives that, when they obtain, make that person's life go well. Perfectionists are under no illusion when they regard as incompetent individuals who fail to grasp even the most basic conditions for a flourishing life. Rather, the perfectionist's assessment of incompetence is well-grounded in the evidence they have, namely the moral view they hold to be true and their observation of the behavior of others. Appeal to evaluative pluralism will be misplaced here, because, if one's moral view takes for granted that certain principles or values are simple and easy to understand, then the only way to do away with that judgment of triviality would be to have less confidence in one's own moral view. This demands more of individuals than good-faith toleration of disagreement; it requires them to be skeptical of their own moral commitments.

Distrust grounded in content-based competency assessments of diverse persons is, I think, not all that outlandish a possibility, and indeed it may even be an accurate account of some of the political divisions we have nowadays. One side claims: it is so obvious that gender roles are oppressive and harm women, such that any competent moral agent will regard them as morally bad. Conversely the other side may claim: it is so obvious that gender roles are basic moral norms necessary for the stability of society, that only the most perverse of persons will support undermining them. It is so obvious that the Bible is necessary for a moral education, that attempts to liberalize education will only serve to produce morally corrupt persons. It is so obvious that the church and state must be separated, that anyone advocating for the use of religious texts in



public education is morally inept. On we go, until nothing is more obvious than the fact that the other side is in a fundamental way morally incompetent, unable to grasp basic moral reasons. You cannot trust people who you think are so morally incompetent; you can only hope to contain the harm that they might otherwise cause.

## V. FRACTURED PUBLICS

The previous two sections have aimed to identify some mechanisms by which Vallier's liberal institutional solution might be frustrated. The mechanisms, of course, depend on certain social conditions obtaining in order to bring about the results just sketched. There must be sufficient disagreement about what moral rules are central, or individuals must hold diverse standards of content-based competency assessments, in order for the relevant group to be pushed towards greater and greater distrust. In this section, I will distinguish two different kinds of untrusting social conditions, and I will argue that in one that might be realized, restoration of trust seems unlikely.

Since my focus will be on communities within which there is a great deal of distrust, we will naturally be concerned with what Vallier characterizes as a state of war. Some community is in a state of war, recall, just when there is low social and political trust among members of that community (p. 20). Important for the following purposes is a distinction between two kinds of states of wars. First, we have how I think Vallier conceives of the state of war, which is as a state of distrust which obtains on account of *lack of reasons to trust*. Second is an understanding of the state of war as a state of distrust that obtains because individuals *have good reason to distrust* one another. Let us say that when a political community has widespread distrust on the basis of negative reasons (i.e. because of lack of reasons to trust), then they are in a *forgiving* state of war. In contrast, when a political community has widespread distrust on the basis of positive reasons (i.e. because of possessing reasons to distrust others), then they are in a *nasty* state of war. The prospects of restoring trust are much dimmer in a nasty state of war.

The difference between forgiving and nasty states of war has to do with why individuals distrust one another. In a forgiving state, members of the relevant community simply have a dearth of reasons to trust one another. Social trust is unestablished in the forgiving state of war, whereas social *distrust* is established in the nasty state of war.

The forgiving characterization allows for an appealing solution, one which I think Vallier ultimately advocates for. On the forgiving characterization, what is needed is a way to introduce reasons for individuals to trust one another. If individuals can be incentivized to be trustworthy, and others observe this, trust can be restored in a forgiving state of war. Accordingly, Vallier's practical proposals predominantly concern motivating individuals to act in trustworthy ways (e.g. p. 278).

The kinds of solutions that might be successful in a forgiving state of war will not be successful in a nasty one. Under nasty conditions, we must first overcome the fact that individuals believe that they have good reason to distrust one another. If individuals already believe other parties to be inappropriate objects of trust, then simply providing an incentive to trust will not be sufficient to induce trustworthy behavior.

The difference between these two kinds of states of war can be illustrated using some simple games. To keep matters especially simple, let us suppose that we are concerned with strictly two-person interactions, and that individuals have two strategies available to them: they can act on the basis of mutually accepted (i.e. publicly justified, in Vallier's terms) norms (the trustworthy strategy), or they can act on what they believe to be the true or correct moral requirements (the untrustworthy strategy). I will take for granted that in a diverse society, these two strategies will require distinct courses of conduct, and moreover that individuals hold different moral norms to be true or correct.

Now, a forgiving state of war can be modeled as a straightforward assurance problem, as shown by figure 1.

**Figure 1.** The Forgiven State of War

	Publicly Justified Norms	Private Norms
Publicly Justified Norms	1, 1	4, 2
Private Norms	2, 4	3, 3

The numbers represent the ordinal ranking for row and column player respectively, with 1 being the most preferred. Both parties stand to gain the most by mutually acting on publicly justified norms. However, the worst outcome for either individual is to act in a mutually acceptable way unilaterally—one gives up advancing the moral ends they hold to be true, while the other advances the moral ends one has good reason to think are incorrect. I am assuming here that publicly justified norms will typically not be what one believes to be the objectively morally best norms. The idea is that if a norm is to be mutually acceptable to persons holding diverse religious, moral, and philosophical commitments, then norm will involve some degree of compromise on what all of those diverse persons believe to be the objectively best moral norms. For us to find a norm that all can accept we will all have to make concessions with respect to what we believe to be objectively morally best.

The idea underlying the characterization of motives in the forgiving state of war is that parties would most desire to live in a cooperative social setting where persons mutually adhere to a publicly justified norm—that is, they would prefer that there be an environment where diverse persons trust one another. While such parties understand that realizing such a social environment requires compromising on the pursuit of some of their private moral commitments, they nevertheless see such compromise as worthwhile provided other parties make a similar concession as well. The problem facing parties is simply that they lack the assurance that others will follow suit. Straightforward incentive mechanisms can induce trustworthy behavior. If individuals were rewarded for acting on publicly justified norms regardless of how others behaved, and such that the reward offset the cost of forgoing the pursuit of their private norms even if others did not, then acting on publicly justified norms can become a dominant strategy for players, in the sense that it is always worthwhile for individuals to comply with publicly justified norms regardless of whether others do so or not. Inducing some individuals to act on publicly justified norms will allow others to observe trustworthy behavior, which, on Vallier’s account, should ground some increase in social trust. If we grant again that there is reciprocity of trustworthiness, we should then expect that one’s observation of incentive-induced compliance with publicly justified norms will lead one to comply with publicly justified norms as well. Here, we see the beginnings of the virtuous circle of trust that Vallier argues liberal institutions will ground.

Prospects are not quite so bright in the case of a nasty state of war. In this state, one has compelling reason to distrust others. Perhaps it is because they have observed failures to comply with (what they believe) are central moral rules, or perhaps it is because they regard other parties as incompetent moral agents. For such agents there is no reason to acquiesce to the claims that others advance; other parties are misguided, depraved, or just too stupid to understand what is right. Why stick your neck out just to be burned by the immoral and the inept? One has better reason to go their own way and advance true morality. Figure 2 depicts a simplified version of this state of affairs.

**Figure 2.** The Nasty State of War

	Publicly Justified Norms	Private Norms
Publicly Justified Norms	2, 2	4, 1
Private Norms	1, 4	3, 3

Many of the assumptions underlying the forgiving state of war hold here as well, with the exception of one important change. This model continues to assume that parties will have to make mutual concessions on their moral commitments to act on mutually acceptable norms. The main difference between this situation and the forgiving state of war is that parties no longer think it worthwhile to compromise on their moral commitments in order to establish conditions of social trust. The underlying idea is that if parties regard themselves as having positive reason to distrust one another, then they will not view the state of affairs where mutual trust is established as one worthy of pursuing. This is not to say that the parties see no value in a state of affairs where there is mutual trust, but rather, that since they view one another as being untrustworthy, they do not view compromise of their personal moral commitments as a cost worth taking on to establish social trust.

So, in the nasty state of war, the worst-case outcome for an individual would be that of making compromises on (her conception of) true morality by acting on publicly justified norms while the other party pursues their own private norms. The idea here is that persons will think that it is better to advance (what they believe to be) true morality somewhat, and allow the other to act immorally, than acquiesce fully in immorality. Similarly, having the other party acquiesce to publicly justified norms is always better for one—better that there be some restraints on others' pursuit of immorality than none at all. Having the other acquiesce while one pursues their own private norms is the best outcome; true morality is advanced while those pursuing misguided conceptions of morality subject themselves to some restrictions. Acting on private norms in this case is a dominant strategy. Consequently, we find parties locked in a Prisoners' Dilemma, both mutually pursuing their private norms of morality.

The nasty state of war is a far cry away from having of social trust restored. Acting on private norms is a dominant strategy, so all have conclusive reasons to act in ways that ground judgments of distrust in others regardless of the behavior of others. Under these conditions, I find it doubtful that the liberal institutional solution can be successful. From there, the hope is that the virtuous circle of trusting can take hold.

To be more precise, I think that there are two challenges facing the liberal institutional solution in a nasty state of war. In the first place, there is a question of institutional first movers—who has reason to introduce liberal institutions in a nasty state of war? If you have sufficient political power to introduce liberal institutional reform, then you will also have sufficient power to introduce other kinds of institutional reform that better reflect your private moral convictions. In a situation where acting on private convictions is a dominant strategy, why would any agent with such power forego the opportunity to advance what they believe to be morally required? Second, there remains the challenge of getting individuals to comply with publicly justified norms, supposing we resolve the problem of institutional first movers. Why should individuals forego advancing (what they believe to be) correct moral ends, especially when they have no reason to expect the same of others? Even if liberal institutions are in place, compromising on one's moral commitments when they have reason to distrust others will still not be a worthwhile strategy. These are, of course, problems that are familiar from any social context that instantiates a Prisoners' Dilemma. When persons are locked in such a Dilemma, mutual non-compliance seems to be the inescapable outcome. Unlike in the forgiving state of war, in the nasty state of war social division run so deep as to leave little room for the seeds of trust to take root.

## VI. CONCLUSION

Vallier's book provides a rich and compelling argument for how we might restore trust in divided societies. I have not aimed to challenge Vallier's claim that his proposed solutions may suffice restore trust in our own societies; rather, my contention has been that his solutions may not apply to all political circumstances, that there be some situations where there is simply no solution to the problem of politics as war.

## NOTES

- 1 All page numbers in parenthesis will be references to Kevin Vallier *Trust in a Polarized Age*. New York: Oxford University Press, 2021.
- 2 Notice that publicly recognized moral rules need not be true or correct moral principles. Presumably, one could live in a society where public moral rules establish distinctly immoral practices, such as slavery. The difficulties posed by disagreements about true moral requirements is a theme considered in greater detail in section IV below.
- 3 Vallier's rejection of the illusion of culpable disagreement is not a rejection of the possibility of culpable disagreement as such. The illusion of culpable disagreement only concerns treating another's disagreement as a failing on her part because she accepts a different religious, moral, or philosophical doctrines than oneself. The possibility of reasonable pluralism about such questions is the ground for rejecting attributions of culpable disagreement in such cases. Vallier's view allows for culpable disagreement with respect to questions that do not admit of such reasonable pluralism.

## Two-And-A-Half Cheers For Socialism

WILLIAM A. EDMUNDSON

The terms “socialism” and “socialist” are recently back in common usage in the United States and elsewhere. Some use the term fondly, while others use it to express annoyance, even alarm. Both annoyance and alarm can be heard in Kevin Vallier’s emphatic declaration: “This regime”—socialism—“cannot be publicly justified for *many* reasons,” he writes (Vallier 2020, p. 202; emphasis in original).

I will try to answer two on his long list of objections. The first objection is that, given “the fact of justice pluralism,” socialism is ineligible on Rawlsian, social-contractarian grounds. The second is that no democratic socialist regime has actually existed, which confirms that liberal democracy and socialism are antithetical. (In responding to these two, I will also do my best to answer, deflect, or palliate as many of the others as I can.) Both objections sound in ideal theory, but implicit in them is a third, which pertains to the non-ideal theory problem of transition to a just regime. Here, those who are receptive to socialism should heed much of what Vallier has to say. A decent welfare state is conceptually detachable from public ownership of the means of production. In current conditions, socialist rhetoric might indeed interfere with efforts to install and then maintain a decent welfare state—even if, seen in a wider perspective, a welfare state is bound to erode in the absence of structural guarantees of substantive political equality which will, among other things, bring the means of production into public ownership.

### BACKGROUND

To put Vallier’s indictment of socialism into context, it is unavoidable to say something about Rawls. Even before the 1991 collapse of the Soviet Union (and “the end of history”), political philosophy had begun to slip back into the somnolence from which Rawls had roused it in 1971.

This slippage manifested itself in various ways, both practical and theoretical. The most serious practical manifestation was how the political culture of the United States turned away from, rather than toward, the celebrated two principles of justice Rawls had advanced in *A Theory of Justice*.

The first, and lexically prior, principle is a principle of equal basic liberties, including a guarantee of the “fair value” of the specifically political liberties—a guarantee of roughly equal political influence for those equally motivated and able, regardless of wealth or social status. The second principle guarantees fair equality of opportunity for all, and

the “difference principle,” a guarantee that the basic structure of society is such that residual inequalities of wealth and income can be seen to benefit all social classes.

The Supreme Court of the United States authoritatively declared, in a 1974 case, *Buckley v. Valeo*, that the first amendment treats private political spending as political speech. The consequence is that Congress is forbidden to try to level the playing field to promote the fair value of equal political liberty. (Leveling up is allowed only if it does not discourage spending by the wealthy, the Court held in the case of *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett* (2011)). As for purchasing access to officials, the Court recently stated:

our cases make clear that “the Government may not seek to limit the appearance of mere influence or access.” ... [for these] “embody a central feature of democracy—that constituents support candidates who share their beliefs and interests, and candidates who are elected can be expected to be responsive to those concerns.” (*Federal Election Commission v. Ted Cruz for Senate*).

The clientistic conception of democracy the Court has invented is at odds with that advanced by Rawls, Robert Dahl, Alvin Goldman, and others.

Rawls’s subordinate, but better-known, difference principle was discarded in the 1990s by the Clinton administration. By ending “welfare as we know it” and replacing it with such devices as the earned income tax credit (EITC), Democratic policymakers effectively declared that it was less important to improve the prospects of the least-advantaged in society than to help those just below the nominal poverty line to edge above it—and let the devil take the hindmost.

In the world of political theory, the literature subsequent to *A Theory of Justice* was enormous, and a certain “Rawls fatigue” was confessed to by influential figures such as Jeremy Waldron. Scholarly discussion of Rawls’s theory had come to be dominated by two relatively esoteric disputes. One of these debates was inspired by Rawls’s subsequent book, *Political Liberalism* (1993), which was understood to represent an important qualification of the claims made for justice-as-fairness, as Rawls came to refer to the substance of the 1971 theory. Waldron faulted Rawls for under-appreciating the extent and seriousness of fundamental disagreements about justice, and Gerald Gaus and his students expanded the libertarian tendencies inherent in “public reason liberalism.”

The other of the two scholarly debates questioned Rawls’s concentration on what he had called “ideal theory,” as distinguished from the more practical and contingent questions of remedial and transitional justice that he gathered under the heading of “non-ideal theory.” Although a good portion of this discussion was indeed engaged in doing non-ideal theory, there was also a separable theme disparaging the very idea of ideal theory.

Rawls’s 2001 book, *Justice as Fairness: A Restatement*, addressed each of these concerns. Unfortunately, it did not create the same *éclat* as his earlier work. The title, *Justice as Fairness: A Restatement*, tends to obscure that fact that, in the book, Rawls was breaking some new ground. As Martin O’Neill and Thad Williamson (2012) explain, Rawls exploded the widely made assumption that his theory was a defense of what he termed “welfare-state capitalism.” Although Rawls did not once use the word “capitalism” in the 500+ pages of *A Theory of Justice*, he did defend the use of labor markets as a way of incentivizing production. Moreover, he defended freedom of occupational choice as one among the equal basic liberties, which serve as an absolute check upon the majority’s pursuit of social ends or any aggregative good.

In the *Restatement*, Rawls distinguished for the first time between five ideal “regime-types”:

- central command socialism
- laissez-faire capitalism
- welfare-state capitalism
- property-owning democracy
- liberal democratic socialism

Rawls inquired whether the principles of justice-as-fairness could be realized by any of these regime-types. The question was inescapable because unless the principles are institutionally realizable, they are unacceptable as principles of political justice.

Rawls curtly dismissed central command socialism and laissez-faire capitalism: the former does not respect the equal basic liberties and the latter disrespects fair equality of opportunity and fair political equality. He proceeded to inquire meticulously into the relative merits of welfare-state capitalism and property-owning democracy. (He had little to say about liberal democratic socialism, other than that it was on a par with property-owning democracy as a potential realizer of justice-as-fairness). Rawls concluded that welfare-state capitalism cannot satisfy the principles of justice-as-fairness, but property-owning democracy can, in favorable conditions. In Vallier's view, this is a mistake in terms of Rawls's own framework. So also, in Vallier's view, Rawls was mistaken to count property-owning democracy and liberal democratic socialism as eligible competitors to welfare-state capitalist regimes.

### VALLIER'S JUSTICE-PLURALISM OBJECTION

My focus is Vallier's assault on socialism. Vallier disparages and sometimes ignores Rawls's distinction between central command socialism and liberal democratic socialism. For example, Vallier claims that socialism denies individuals access to capital, and that socialism thus lacks a competitive mechanism for pricing capital. Each of these charges are easily sustained against central command socialism—in fact, Rawls made them himself. But—without further argumentation—they cannot stick if leveled against liberal democratic socialism.

Liberal democratic socialism does not deny citizens the right to acquire and own capital assets. What any type of socialism denies—as justice-as-fairness itself denies—is that citizens as individuals or private associations have any basic right to own society's *means of production*. Rawls did not clarify what is meant by the expression, “the means of production,” but only the most extreme utopian socialists of the nineteenth century meant to forbid private ownership of any and every tool, utensil, and resource that might be put to productive use. Rawls wrote approvingly of John Roemer's discussion of market socialism, according to which only the “commanding heights” of financial capital need be publicly owned. Roemer's proposal, moreover, outlines a competitive pricing mechanism for financial capital, based upon the Japanese model (Rawls 2007, p. 323 & n.8).<sup>1</sup>

Vallier might scoff at this. In his view, the management of publicly owned assets is enmeshed in “the logic of evaluative pluralism” and thus, inevitably, involves struggles that undo democracy and lead to totalitarianism (Vallier 2020, p. 204). There is no question whatever that democratic control of any asset whatever encounters what Rawls called “the fact of reasonable pluralism.” What Vallier implicitly denies is the very possibility of a political conception of justice—I will return to this. For the moment, it will do to note that the objection, if good, would similarly be fatal to any democratic regime in possession of public assets. Privatize it all, or be sucked into totalitarianism—is that the dilemma? If so, Vallier's “it leads to totalitarianism” condemns all government. Even a Nozickian nightwatchman state will need equipment and resources.

Admittedly, a liberal democratic socialist regime will not aim to maximize total wealth. That also will be true of any type of regime capable of realizing justice-as-fairness. Justice-as-fairness assigns a lexical priority to the equal basic liberties. Once a society has achieved a good-enough level of wealth, the pursuit of ever-greater wealth is absolutely subordinated to the equal basic liberties. Vallier accuses socialism of a violating a “principle of sustainable improvements” (Vallier 2020, p. 222), which, presumably, choosers would select behind a thin veil of ignorance. What is unclear is where this sustainable-improvements principle fits. Is it subordinate to the equal basic liberties, or not? Is it subordinate to fair equality of opportunity, or not? If, at the constitutional stage, private ownership of society's means of production is judged to be irreconcilable with the stable assurance of the equal basic liberties—including the fair-value of political liberty—and with fair equality of opportunity, then private ownership of those assets is disallowed. Whatever “improve-

ments” private ownership might promise is—for anyone adhering to a political conception of justice—unsustainable. “Sustainable” must—like social stability itself—be understood as sustainable for the right reasons.

Vallier also charges that justice-as-fairness—or its socialist tendency—is “defeated” by Brian Kogelmann’s “justice pluralism” (Vallier 2020, p. 202 n.91). The idea here is to eke out Rawls’s concession that reasonable conceptions of justice are not limited to the single example of justice-as-fairness, and that other reasonable liberal conceptions are possible. Kogelmann transforms Rawls’s “fact of reasonable pluralism” into a “fact of justice pluralism.” What has to be borne in mind is that there is a limit to what qualifies as a “reasonable” conception of justice, from a Rawlsian perspective.

To count as reasonable, a conception of justice must accept a principle of reciprocity and its implications. The principle requires that any structural inequalities sustained by public force be seen as benefitting all representative persons across society, and that they not undermine real political equality, the equal basic liberties, or fair equality of opportunity.

Rawls’s only extended discussion of a reasonable conception of political justice other than justice-as-fairness is his comparison pitting what he called the principle of restricted utility against justice-as-fairness (Rawls 2001, pp. 119-20). The principle of restricted utility is just like justice-as-fairness, except that the difference principle—the second half of the second principle of justice-as-fairness—is replaced by a principle of average utility. This means that residual material inequalities do not have to benefit the least advantaged: they need only raise the average of wealth and income. Rawls confessed that his argument against this alternative was less conclusive. The reason for this was that the principle of restricted utility is restricted by the lexically prior first-principle equal basic liberties and the principle of fair equality of opportunity. Rawls never suggested that a conception of political justice might dispense with these prior principles. (They are, I believe, demanded by the principle of reciprocity.) A conception of justice is not reasonable unless it accepts these.

Might a Rawlsian chooser reasonably reject socialism? Rawls is clear that socialism is not required as a first-principle liberty. The only property rights guaranteed by his first principle are the right of bodily integrity, a right to personal possessions, and a right to own a residence. There is no right to acquire private ownership of the means of production, but also no first-principle right to participate in the management of one’s workplace. Vallier could be understood as maintaining that a representative party in the original position would insist upon a right to acquire ownership of society’s means of production. A right not merely to start her own business with its buildings and equipment—but a right to own something that every other member of society depends upon to live productively and which cannot, by its nature, be owned by each and all who wish to.

How could one justify this insistence to others, behind a veil of ignorance? A principle that would insist on a basic right for someone to attain such dominance is one that it would be reasonable to reject. It would be reasonable to reject for much the same reason as it would be reasonable to reject a principle allowing one, in exchange for or in the expectation of material advantages, to surrender one’s right to vote. At this juncture, Vallier might object that justice pluralism means that it is reasonable to propose a principle that would abandon political equality. If so, what more is there to say? What we have reached is the “no-agreement point.” We were not merely inventorying what Rawls admitted as alternative reasonable conceptions of justice.

## VALLIER’S DISMISSAL OF ACTUALLY EXISTENT DEMOCRATIC SOCIALISMS

Vallier is friendly to welfare-state capitalism but claims that socialism entails a “welfare state of extreme administration,” as contrasted to a “welfare state of law” (Vallier 2020, p. 203). While a welfare state of law can be publicly justified, a welfare state of extreme administration cannot. Is the difference merely verbal? A welfare state of extreme administration, he explains, involves constant governmental tinkering with the free market, while in a welfare state of law “clear, public, general principles” work the laboring oar (Ibid.).



Vallier evidently is taking pains not to condemn the welfare state itself on Hayekian grounds, so he adds that a socialist state “does far more than engage in regulation and the equalization of incomes; it pursues distributive justice by owning a society’s major concentrations of capital and operating them according to a central plan” (Ibid.). If we take the Polanyian point that every market is embedded in some plan or other, Vallier’s complaint seems to be about the extensiveness of planning, rather than to planning, even to state planning, *per se*.

The objection comes down to this: management of publicly owned assets is enmeshed in “the logic of evaluative pluralism” and thus inevitably involves struggles that undo democracy and lead to totalitarianism (Vallier 2020, p. 204). Again, it is hard to see why “the logic of evaluative pluralism” is not also involved in the maintenance of a welfare-state capitalist regime. Skirting “the weeds of Hayek exegesis,” Vallier invokes a Hayekian world “where clear, public, general principles, rather than extensive administrative bodies, regulate social insurance and other state functions” (Vallier 2020, p. 203). The word “*extensive*” groans under the load it is called upon to bear here.

Vallier’s clincher is a claim that no liberal democratic socialist regime has ever existed.

“We have never seen a liberal-socialist regime, only liberal welfare states and *illiberal*-socialist regimes” (Vallier 2020, p. 204; emphasis in original). Vallier cannot deny that Great Britain circa 1945–51, for example, was a liberal welfare state, so he insists that the British never had a socialist government at all, despite public ownership of banking, airlines, trucking, railroads, power, utilities, communications, coal, iron and steel.

Vallier waves all this aside. “Attlee’s Labour government in Britain socialized only 20 percent of society’s productive resources” (Ibid.). What is the magic number, then? Fifty percent?<sup>2</sup> Would Norway’s state ownership of thirty-five percent of exchange-traded assets count as enough? Evidently not wanting to rest his case on a percentage, Vallier quickly adds that Britain over subsequent decades “backed away from” socialism (Ibid.), without explaining how Britain escaped the “logic of evaluative pluralism” and its ratchet-road to serfdom. Nor does he confront evidence that a high level of public ownership can be the very expression of a high level of public trust—as in Norway, where the publicly owned economy has increased since the 1980s (Lie 2016).<sup>3</sup>

## TRANSITION AND NON-IDEAL THEORY

Vallier’s criticisms are better taken as an inventory of obstacles that would have to be overcome to achieve socialism—problems of transition, of non-ideal theory, rather than as decisive objections to adopting liberal democratic socialism at the “constitutional convention” stage of Rawls’s four-stage sequence, a stage which belongs to ideal theory. Vallier may well be correct that trust-restoring reforms of the present American system are not helped by calls to march under the banner of socialism.

At its core, socialism is a theory about the just way of dividing the product of social cooperation among producers. In a wage economy, owners of capital get an income from their capital and wage earners get an income from the sale of their time. Those who neither own capital nor sell their time for a wage are not engaged in social cooperation in the sense of participation in the wage economy. This group includes children, the disabled, and other people who are not engaged in wage work or living on their capital. It includes people who do unpaid labor as homemakers and caregivers.

This third group—of those whose incomes are not derived from capital they own or work they are paid to do—is huge, and everyone spends a good chunk of life belonging to it. Those in this group are dependent for an income on others who have capital or get paid to work. This is not a reliable source of funds to meet basic needs, so the gaps have been filled to varying degrees by welfare states.

As a conceptual matter, a welfare state need not be a socialist state and a socialist state need not be a welfare state. A good case can be made that a democratic socialist state is likelier to sustain an adequate welfare state, but leave that aside. Vallier (and others) can be understood to be pressing the point that the political task of constructing and maintaining a welfare state—in current conditions—is not helped but hindered

by insistence on public ownership of the means of production, i.e., socialism. That explains why enemies of the welfare state are delighted to stigmatize it as “creeping socialism,” and why Marjorie Taylor Greene is quicker to use the terms “socialist” and “socialism” than is Alexandria Ocasio-Cortez. (Rishi Sunak recently denounced the tax *cuts* proposed by his fellow Tories as “socialism” (Forrest 2022)—normally it is tax *hikes* that are stigmatized so, but I digress.)

“Socialism” is an emotionally laden term and, as such, there are tactical reasons to limit its use. Sadly, in the United States, the word “welfare” has independently (and non-accidentally) acquired a pejorative connotation almost of the same order as “socialism”—despite the U.S. Constitution’s determination to form a union “to promote the general Welfare.” I suspect that Vallier deplures as much as I do the rhetorical skullduggery that transformed “welfare” from a virtue word into a vice word (I borrow Peter Westen’s terminology). I hope Vallier is willing to entertain the possibility that his performing a similar operation on the term “socialism” does nothing to promote social welfare or social trust.

## NOTES

- 1 Rawls cites Roemer’s *A Future for Socialism* (1994, p. 41) as *Liberal Socialism*. Roemer sketches Japan’s *keiretsu* management model.
- 2 Kenworthy (2022, p. 1) stipulates that a socialist economy is one “in which two-thirds or more of employment and output (GDP) is in firms that are owned by the government, citizens, or workers.” He confesses that the fraction is arbitrary, but “as sensible as any other” that similarly “connotes a subsidiary role for the private non-worker-owned sector”. I disagree, and I argue for a qualitative rather than quantitative conception of socialism in my 2020.
- 3 Norway may be exceptional even among the Nordic countries, but even the Bergh book Vallier relies on attributes much of Sweden’s success to radical land reforms (which, of course “assault private property” (Vallier 2020, p. 205)). See Bergh 2016.

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## Can We Trust Neoliberalism?

ERIC ROWSE

Kevin Vallier's *Trust in a Polarized Age* focuses on ways to build social trust, a crucial task for the U.S. and the world. The considerable merits of Vallier's book notwithstanding, I disagree with many of Vallier's policy prescriptions. Vallier endorses a version of *neoliberalism*: a social system focused on economic growth, with strong private property rights, mostly unregulated markets, a good amount of economic inequality, a small welfare state, and little concern for the climate crisis. I shall argue that Vallier's neoliberalism arises from at least three mistaken commitments: his conception of agency rights, the priority he gives to economic growth, and his rejection of egalitarianism.

Much of Vallier's book concerns empirical claims about *social trust*. Roughly, social trust occurs when people believe that shared moral rules are being followed, rules allowing all people to pursue their plans and projects (p. 50).<sup>1</sup> Despite Vallier's arguments that neoliberal policies will restore social trust, I remain unconvinced.<sup>2</sup> In what follows, however, I shall set that topic aside. Instead, I shall assess the philosophical foundations of Vallier's neoliberalism.

### 1. AGENCY RIGHTS

For Vallier, *agency rights* are central to his defense of neoliberalism; he believes they justify robust private property rights, rights drastically restricting the state's power to enact regulations and redistribute economic resources. He hopes that enforcing these strong private property rights will restore social trust.

"Agency rights," according to Vallier, "protect the formation of coherent agent psychologies and the minimal capacity of persons to extend their projects, plans, and values into the external world" (p. 45). Vallier distinguishes between *negative* and *positive* agency rights. Negative agency rights protect us from types of interference. They "include freedom of thought and protections from various types of mental or physical harm. . . . the right to life and bodily integrity, freedom of speech, and the formation of intimate relations with others. . ." (Ibid.). In contrast, positive agency rights "are rights to meaningful access to the resources required for an agent to freely develop and exercise her agency"; they include rights to "food, healthcare, housing, clothing, and education" (p. 46).

Private property rights, on this view, are negative agency rights (p. 45), justified on the ground that they protect other agency rights: "Private property provides persons with the resources they need to satisfy their urgent wants and needs and to pursue their projects, plans, and principles" (p. 126).

Crucially, Vallier believes that negative rights—such as property rights—take priority over positive rights—such as rights to healthcare, housing, and education: “societies should protect [positive] rights in ways that do not curtail the negative rights of agency” (p. 46). This view, however, is misguided. Vallier appeals to the value of agency to derive both negative and positive rights. Yet positive rights are no less important than negative rights to the protection of agency. A lack of needed medical care vitiates my agency as surely as assault does. If I am desperately ill and yet lack effective access to care, my capacity to live my values and carry out my plans is severely diminished. As a result, a social system that prioritize negative rights over positive rights does not take my agency very seriously (Nussbaum 2011, pp. 2-8).

Moreover, negative rights are often not worth very much without positive rights. My right to free speech is profoundly threatened by malnourishment. When my right to proper nutrition is not upheld, my hunger and weakness will vitiate my ability to think and speak freely. I may not be able to think about much more than how hungry I am (Shue 1996, pp. 24-25). With respect to free speech and other negative rights, I doubt that we merely value non-interference; we value actually exercising free speech, movement, freedom of worship, and the like. Positive rights, therefore, are at least as morally important as negative rights (Nussbaum 2011, pp. 20-22, 65-66).

It might seem that negative rights take priority over positive rights, because negative rights are less demanding than positive rights. At first glance, negative rights merely ask individuals not to interfere with other individuals, while positive rights require the state to levy taxes and set up social programs. But this view is a mistake.

While we can make a conceptual distinction between rights to non-interference and rights to goods, services, and regulations, this distinction has little practical significance. This is because rights do not enforce themselves. If I am to enjoy non-interference in the real world, then social institutions—such as the police, the judiciary, and the military—must exist and effectively enforce my rights to non-interference. Without such institutions to deter and punish rights violations, other people may violate my agency rights with impunity. I do not really possess the freedom of speech if others may assault me whenever I exercise it. Thus, the actual enjoyment of *both* negative and positive agency rights requires the creation and maintenance of extensive social institutions (Nussbaum 2011, pp. 65-67; Shue 1996, pp. 36-40).

Vallier could counter that the social institutions required to uphold positive rights are much more costly than those required to uphold negative rights. Upholding positive rights, for example, requires constructing a costly welfare state, while upholding negative rights is generally less costly. On this view, less costly rights should take priority over more costly rights. Negative rights should, therefore, take priority over positive rights.<sup>3</sup>

I doubt, however, that less costly rights should take priority over more costly rights. All wealthy societies can afford to uphold both negative and positive rights. Some rights are indeed more costly to uphold than others. But for wealthy countries, these costs are manageable. Of course, desperately poor societies cannot afford to uphold positive rights while also upholding negative rights, but this is why wealthy countries have strong obligations to provide financial aid to poor countries.

Because I deny the priority of negative rights, I also deny Vallier’s claim that society should protect positive rights by employing non-coercive institutions, such as charities and churches, instead of coercive institutions, such as the state (p. 46). Positive rights are no less important than negative rights, and the state may employ coercion to protect negative rights—by, for example, levying taxes to pay for a police force and then employing the police force to prevent and punish rights violations. If the state may use coercion to protect negative rights, then it may use coercion to protect positive rights. The state may, for example, coercively tax the wealthy to pay for social programs or coercively regulate industry to protect the environment.

Contrary to Vallier, I doubt, too, that private charities can adequately uphold positive rights to healthcare, housing, childcare, and education. As the only affluent nation without universal healthcare, the U.S. has tens of millions of people who lack health insurance, and tens of millions more with inadequate insurance. No law prevents private charities from providing uninsured Americans with good-quality health in-

surance, but this does not happen, because private charities simply do not have the resources to do so. The same holds true for housing, education, and childcare.

History tells the same story. Prior to the New Deal, private charities and fraternal organizations attempted to protect Americans from extreme poverty. They sometimes provided sick pay and minimal health insurance to some working men (not all men and virtually no women). The benefits were paltry and inadequate. Although private charities and fraternal organizations left large numbers of people behind, they were most successful in large, dense cities. People in less populous areas had to do without. Another problem is that private charity collapses precisely when it is needed the most. During an economic depression, charitable donations decrease as people become more financially insecure. The welfare state solves these problems. By heavily taxing the wealthy, it can gather the resources needed to uphold positive rights. By being national in scope, it covers everyone across the country. And because of the state's capacity for deficit financing, it can increase aid during a depression, when it is most needed. Thus, only the state, drawing upon the resources of the entire nation, can adequately uphold positive rights (Konczal 2014).

Vallier also claims that positive rights are “sensitive to the deserts or merits of the recipients” (p. 46), meaning that some people are too lazy or reckless to deserve state-provided healthcare or housing. I see things differently. Negative rights are not merely extended to the deserving, as it would be plainly unacceptable for the police to protect only hardworking, upstanding citizens. With positive rights being just as important as negative rights, we similarly owe healthcare, housing, clothing, education, childcare, and proper nutrition to the deserving and undeserving alike.

So far, I have argued that negative agency rights do not take priority over positive ones, the state, not private charity, should uphold positive rights, and positive rights should be provided unconditionally.

I do agree with Vallier, however, that the value of agency justifies some private property rights, but I do not think private property rights are nearly as strong as Vallier holds. In my view, property rights do not create a weighty presumption against state regulation or redistributive taxation. Because negative and positive rights are equally important to protecting agency, private property rights, as negative rights, do not take priority over positive rights to healthcare, housing, education, and the like. Instead, negative and positive rights, I think, should fit together into one coherent scheme. This means that healthcare, housing, and education rights limit private property rights. On this view, the state does not infringe property rights when it levies taxes for health, education, and housing programs. Private property rights do not apply in these cases.<sup>4</sup>

Further, Vallier argues that private property rights include a right to own *productive property*, such as farms and factories. To support this claim, Vallier gives the following example: a person “can convert her personal property in her home into productive property, as does a person who decides to run a massage parlor out of her house” (p. 129). She combines her personal property with one of her agency rights—freedom of occupation—to create productive property.

While it is reasonable to allow someone to run a massage parlor out of her home, it does not follow that massive holdings of personal and productive property are justified. Unlike a small, one-person business, massive holdings of productive property engender immense power over the lives of other people. Suppose I am a factory owner living under a system of strong property rights. Because the factory is *my* factory, I alone determine its working conditions. I can hire or fire people, set their work and break schedules, decide how safe they should be at work, and create obnoxious, demeaning, and arbitrary rules for them to follow (Anderson 2017, pp. xix, 37-40). This power requires justification, and the massage parlor example does not give it.

To be sure, I do need some private property—for instance, food, clothing, and money—to exercise my agency. If I enjoy hiking, then I likely need to own hiking boots and a warm coat.<sup>5</sup> The problem for Vallier, however, is that these examples do not justify large concentrations of wealth and power. There is an important difference between owning a pair of shoes and owning an entire shoe factory. The latter involves possessing a vast amount of power over others, yet I do not require this power to protect my agency. Protecting my agency requires that I have nutritious food, not that I own vast tracts of farmland. Vallier has shown

that protecting agency requires some private property; he has failed to show that rights to personal and productive property are strong enough to justify undemocratic workplaces and large concentrations of wealth and power.<sup>6</sup>

In this section, I have argued that negative and positive agency rights are equally morally important, the state should use coercion to unconditionally uphold positive rights, and rights to personal and productive property are too weak to justify large concentrations of wealth and power. These claims are important because Vallier thinks that strong property rights preclude a comprehensive welfare state (p. 153) and the large-scale redistribution of wealth (p. 183). I have argued, however, that the value of agency justifies limited private property rights, rights fully consistent with the public provision of positive rights.

## 2. ECONOMIC GROWTH

Vallier places great value on economic growth, using it to argue for strong private property rights (pp. 130-132), while also using it to argue against egalitarianism (pp. 188-196) and most state regulations (pp. 158-159). Vallier believes that economic growth has mostly beneficial social consequences (p. 131). And regulations and egalitarianism, according to Vallier, dampen economic growth, thereby limiting these beneficial consequences. Strong property rights, in contrast, spur growth. For the sake of everyone's well-being, then, Vallier advises us to reject egalitarianism and most regulations, implementing strong property rights instead. I shall argue, however, that economic growth is much less important than Vallier thinks it is. It neither justifies strong property rights nor precludes egalitarianism and most regulations.

The core problem is that, though Vallier acknowledges that wealth is different from human well-being (p. 131), he quickly loses sight of this point, extensively using wealth as a proxy for well-being. Vallier is right that as a society becomes richer, its members can gain opportunities and live healthier and happier lives. But this is by no means guaranteed.

Without redistributive taxation and high-quality public services, the benefits of economic growth are often shared extremely unequally (Nussbaum 2011, p. 49). The U.S. is the wealthiest country in human history, yet millions of its citizens lack access to affordable healthcare, housing, education, childcare, and nutritious food, subjecting them to an incredible degree of economic insecurity and avoidable suffering. Despite the U.S.'s large GDP, its citizens live shorter, unhealthier, more stressed lives than the citizens of other rich countries (Hacker and Pierson 2016, pp. 23-43).

Moreover, consider China. It has combined high economic growth rates with authoritarianism, its citizens lacking basic freedoms, such as free speech and freedom of religion. Meanwhile, toxic air suffocates Chinese cities (Nussbaum 2011, pp. 47, 50).

Although a high GDP tells us that a country *could* have a high quality of life, it fails to show that a country *does* have a high quality of life. Other measures—life expectancy, obesity rates, protection of human rights, deaths from preventable illness, homelessness, air quality—are needed to ascertain a country's quality of life (Nussbaum 2011, pp. 49-50).

What is more, poor countries without high economic growth can have relatively high living standards (Sen 2000, pp. 45-49). Despite suffering under an unjust economic blockade, Cuba has longer life expectancy, lower child mortality, and a better doctor-to-patient ratio than the U.S., and, unlike Americans, all Cubans enjoy access to excellent health and education systems as basic rights (Pineo 2019, pp. 16, 29, 33-44; Kronenberg 2015). Cuba achieved all this while having lower carbon emissions than comparable countries (Hickel 2020, p. 6).<sup>7</sup> Kerala, a state in southern India, has also achieved an impressive standard of living despite low economic growth (Sen 2000, pp. 21-24, 45-49).

Economic growth can also be morally objectionable. Many countries have used sweatshop labor to produce economic growth, but long working hours in unsafe and strenuous conditions violate the rights of workers—since these working conditions threaten and damage agency. Similarly, fossil fuel companies can produce economic growth, but this kind of economic growth brings the entire planet closer to climate catastrophe.

Vallier does concede that we should care about broad-based economic growth, “growth that benefits everyone” (p. 132), not merely economic growth itself. Yet broad-based economic growth is not enough. For example, broad-based growth derived from worker exploitation and large greenhouse gases emissions is highly objectionable. What is more, broad-based growth can be highly unequal. Because Vallier does not specify broad-based growth, it is consistent with the least advantaged benefiting minimally while the most advantaged benefit enormously—this has roughly been the situation in the U.S. for the last four decades. This contributes to extreme economic inequality, which, as I argue in the next section, is morally objectionable.

My points about economic growth are important, because Vallier primarily appeals to economic growth to argue that few state regulations are justified. He thinks that most regulations dampen economic growth (p. 159). But if economic growth is not nearly as important as Vallier thinks, then many more regulations are likely justified. After all, the primary justification for most regulations is that they protect people’s lives, health, and agency. For example, the state requires businesses to have unlocked fire exits so that, in the case of a fire, workers can escape the flames rather than burn to death, as happened in the 1911 Triangle Shirtwaist Factory Fire.<sup>8</sup> The state mandates building codes to prevent factories from collapsing, as happened in Bangladesh in 2013, killing at least 1,132 workers, while injuring more than 2,500.<sup>9</sup> By regulating automobile production, the state saves thousands of people each year from dying in driving accidents (Lardner 2011, pp. 15-16).

Vallier sees a policy’s effect on economic growth as a neutral way to assess the policy, believing that a policy must be justified as “an improvement according to each person’s reflective perspective.” “Otherwise,” Vallier warns, “only those who think that a proposed policy realizes moral values that override economic well-being will have sufficient reason to endorse it if it comes at an economic cost” (p. 158). But for the reasons I cited above, this focus on economic growth is a mistake. Additionally, health and safety are values that every reasonable person should endorse. Of course, many libertarians may not think health and safety concerns override economic growth, but surely that is one of the reasons libertarianism is implausible. It is difficult to have much liberty if your workplace injures you, your food poisons you, and faulty wiring causes your home to burn down.

To be sure, at one point Vallier acknowledges that “. . . some regulations required to protect people from workplace harms, like health and safety regulations, should be publicly justifiable” (p. 154).<sup>10</sup> But the rest of Vallier’s discussion makes clear that he thinks very few state regulations are actually justified. For example, he approvingly cites the economist Ronald Coase, who speculates that virtually no regulations are worth the economic cost (p. 159). Vallier even believes that a private court system, instead of state regulation, can adequately protect workers, consumers, and the environment (pp. 154-155).<sup>11</sup>

Vallier also casts doubt on our capacity to reasonably predict how regulations will affect economic growth (pp. 160-161). But, again, this worry arises from a mistaken focus on economic growth. The effectiveness, moreover, of many regulations to save lives and protect health is clear. In the U.S., regulations have ended child labor, increased access to public places for disabled Americans, improved workplace and housing safety, banned harmful chemicals such as DDT, and reduced cigarette smoking rates (Lardner 2011). When regulations are well-designed, the results are impressive.

Even if there are reasonable doubts about the effects of proposed regulations, many regulations will still be justified, because the state should, in some areas of public policy, err on the side of more regulation, not less. After all, unsafe workplaces and unsafe consumer products can cause serious injury and death, a significant threat to agency. What is more, the future of human civilization is threatened by the climate crisis. Everyone’s agency will be greatly reduced by failing to keep the increase in global temperature below 1.5 degrees Celsius. In this case, doing too little is far more dangerous than doing too much. Limiting economic growth is a small price to pay to protect people’s agency and ensure the planet remains habitable.

To be clear, I am not arguing that economic growth is entirely unimportant. Nor am I arguing that the absence of economic growth is desirable. Some growth, consistent with net-zero carbon emissions and protecting workers, consumers, and the environment, is a good idea. I am merely arguing that economic

growth should not be a main priority. Consequently, concerns over economic growth fail to provide strong reasons against regulations and egalitarianism.

### 3. ECONOMIC INEQUALITY

Vallier opposes egalitarianism (roughly, the view that we should greatly reduce economic inequality).<sup>12</sup> Instead, he supports some aid to the poor (pp. 167-171) and reforming zoning laws and intellectual property rights (pp. 176-177). He also entertains the possibility of supporting some union rights (p. 197) and some limits on inheritance (p. 129). These policies would somewhat reduce economic inequality, but huge concentrations of wealth and power would likely remain. For example, the vast wealth already generated by strong intellectual property rights would remain concentrated, and weak union rights and weak limits on inheritance are not enough to combat the massive inequalities entrenched in the American economy. Additionally, Vallier's proposals fail to reduce the wealth and power of the financial and fossil fuel sectors.

Contrary to Vallier, I believe that there are at least two compelling reasons for promoting a high degree of economic equality. The first is that equality protects democracy, the second that equality promotes desirable social outcomes.

Why does equality protect democracy? Consider that extreme economic inequality undermines democracy, because the wealthy are able to buy a disproportionate share of political influence. The wealthy hire lobbyists to shape legislation in their clients' interests, and the wealthy give large campaign contributions to candidates, which allows them to lobby candidates directly. The wealthy can then threaten to withhold future contributions if politicians are tempted to contravene their interests. Large campaign contributions also give an advantage to primary candidates who seek to protect the interests of the wealthy. The wealthy create think tanks, advertising campaigns, and astroturf political organizations to promote their favored policies and mislead the public. Ownership over the media also plays a role in framing the national debate. These activities distort the political process, tilting it in favor of the wealthy and against ordinary Americans (Mayer 2016). If, in a democracy, people are supposed to have roughly the same influence over the political process, then extreme economic inequality greatly damages democracy.

This problem calls for strict rules on lobbying and campaign contributions, along with public financing of elections. While these measures are part of the solution, they are not enough. The wealthy would still have inordinate influence through think tanks, advertising, astroturf organizations, and control over the media. To truly protect democracy, we need to greatly reduce economic inequality. By doing so, there will be less money available for subverting democracy.

Vallier, of course, rejects the claim that greater economic equality protects democracy. Instead, he speculates that economic inequality is not the main cause of *political inequality* (that is, the affluent having more influence over the political process than everyone else). For example, he suggests that rent-seeking is the main driver of political inequality. "If it is relatively easy for people to gain special government favors," then rent-seeking may be the primary cause of both political inequality and economic inequality (p. 177).

This suggestion, however, is implausible. Securing government favors requires resources: large campaign contributions, hired lobbyists, and producing propaganda. Although rent-seeking no doubt helps to create economic inequality, it is mostly a symptom of economic inequality, because it takes wealth to engage in rent-seeking. So, rent-seeking is unlikely to be the primary cause of political inequality.

Similarly, Vallier suggests that the affluent may be more savvy about the political process, creating political inequality, not through their wealth, but their knowledge and social traits (p. 178). Although I strongly support a better civics education in the U.S., I doubt that political inequality primarily results from some being shrewder and better informed than others. Again, lobbying, access to candidates (by means of large campaign contributions), and promoting misinformation (through think tanks and astroturf organizations) are the main mechanisms of political inequality, and these methods require a great deal of wealth. Ordinary Americans, no matter how well-informed, cannot afford to hire a phalanx of lobbyists, as the wealthy can.



Next Vallier speculates that high social status, not economic inequality, causes political inequality. On this view, high status individuals use their status to influence the political system (p. 178).

But social status is intimately connected with economic inequality. Great wealth, in our culture, tends to be equated with superior ability, while poverty is often seen as a personal failing (Wilkinson and Pickett 2010, p. 40). The wealthy are seen as intelligent and hardworking, the poor as slow and shiftless. In this way, economic inequality creates inequalities in social status. Thus, the claim that social status causes political inequality largely amounts to saying that economic inequality does so.

Finally, Vallier speculates that economic inequality may not cause political inequality, because economic inequality may merely cause greater polarization, and our institutions do not function well in circumstances of polarization—they become gridlocked. The problem, then, is our institutions, not inequality. Perhaps we could redesign our political institutions to function better when there is polarization, while leaving extreme economic inequality in place (pp. 178-179).

But this suggestion suffers from the same problem we saw above. Namely, political institutions cannot be effectively insulated from extreme economic inequality. There are simply too many ways—think tanks, advertising campaigns, astroturf organizations, and media ownership—for the wealthy to gain greater influence.

Contrary to Vallier, extreme economic inequality is the *best explanation* for the wealthy's disproportionate influence over politics. Consider the U.S.'s inaction on the climate crisis. The science of climate change has been settled for over 30 years; unless the U.S.—and the rest of the world—drastically reduce greenhouse gas emissions, the future of human civilization is threatened. Yet the U.S. has failed to meaningfully reduce greenhouse gas emissions. In fact, it has expanded its own fossil fuel production. The best explanation for this disturbing situation is that the fossil fuel industry, by means of lobbying, campaign contributions, and propaganda, has effectively prevented political action (Mayer 2016, pp. 146-156).

Exorbitant U.S. healthcare costs provide another example. Virtually every other rich country employs some form of price regulation to keep healthcare costs reasonable. The U.S. chooses not to (Kane 2012). The best explanation for this choice is the political power of the pharmaceutical industry, hospital companies, medical manufacturers, and the American Medical Association (Reuters 2021). It is beyond reasonable doubt that extreme economic inequality undermines democracy.

The second good reason for egalitarianism is that greater economic equality produces desirable social outcomes. As Richard Wilkinson and Kate Pickett have argued, more equal societies have longer life expectancy, less obesity, better health outcomes, lower rates of teenage pregnancy, less crime and violence, better education outcomes, better mental health, and lower levels of drug abuse. Indeed, more equal societies have greater social trust (Wilkinson and Pickett 2010, pp. 15-30).

Vallier claims that we lack a good reason to think equality *causes* these desirable outcomes (pp. 61, 183). Wilkinson and Pickett, however, present a highly plausible causal story. We tend to see wealth as a marker of greater personal ability. Those at the top of society are seen as superior to those below them, giving the wealthy a higher social status. Greater inequality intensifies the differences in social status. So, some people are not merely seen as a little better than others; they are seen as much better than others. This matters because thinking of yourself as socially inferior—or knowing that you are seen as such—is one of the greatest drivers of stress. As is well-documented, stress has terrible consequences for a person's health and behavior. With their greater inequality of social status, extremely unequal societies are extremely stressed societies (Wilkinson and Pickett 2010, pp. 33-44).

This causal story is strengthened by the following. Higher poverty rates, all on their own, cannot explain the worse social outcomes in extremely unequal countries, such as the U.S. This is because, in highly unequal societies, *every* social group—including the wealthy—is worse off. The upper and middle classes in the U.S., tend to have worse health and shorter lives than the upper and middle classes in more equal societies. Greater inequality, it turns out, increases stress throughout society, resulting in worse health outcomes for all social classes (Wilkinson and Pickett 2010, pp. 75-76, 175-182).

Vallier's rejection of egalitarianism also assumes that strong property rights are in place, providing a presumption against reducing inequality, a presumption overridden by only very weighty considerations (p. 183). But, as I argued above, property rights are not nearly as strong as Vallier thinks they are. That redistributive taxation will eliminate "many valuable choices from rich persons" is not a compelling reason to preserve plutocracy (p. 179).

Likewise, Vallier's rejection of egalitarianism assumes that economic growth is very important (pp. 188-196). If egalitarianism engenders market inefficiency and state corruption, then, according to Vallier, these are powerful reason to reject egalitarianism. Yet, as we saw above, economic growth should not be a top priority, thereby draining these worries of their force. It is also not inevitable that egalitarianism leads to severe economic problems. For example, Norway, with relatively low inequality and a large state sector, is not plagued with rampant corruption and enormous inefficiencies. The Norwegian state even owns most of the country's wealth, yet Norway is one of least corrupt countries in the world (OECD; Bruenig 2018; Transparency International 2020).

In short, to strengthen democracy and our society, we should drastically reduce economic inequality.

#### 4. CONCLUSION

To restore social trust, Vallier proposes doubling down on neoliberalism. Yet neoliberalism rests on implausible foundations. Neoliberalism prioritizes negative rights—such as property rights—over positive rights to healthcare, housing, education, childcare, and proper nutrition. Neoliberalism prioritizes economic growth, even though growth is a poor indicator of improvements in well-being, and some growth is morally objectionable. Neoliberalism protects extreme economic inequality, despite its corrosive effects on democracy and society.

My criticisms suggest an egalitarian alternative: a social system without large differences in wealth, power, and opportunities, with a strong set of positive rights, robust labor unions, extensive state regulation to protect workers, consumers, and the environment, and a massive effort to prevent climate catastrophe.

Although I disagree with large parts of *Trust in a Polarized Age*, it is an intelligent and sophisticated contribution to contemporary political thought. I very much share Vallier's commitment to restoring social trust.

#### NOTES

- 1 All in-text page numbers refer to Vallier 2020.
- 2 After all, neoliberalism has dominated U.S. economic policy for the last four decades, a period corresponding with a sharp decline in social trust. Will doubling down on neoliberalism really restore social trust?
- 3 I thank an anonymous reviewer for raising this objection.
- 4 For a similar point, see Stilz 2014, pp. 427-428.
- 5 It is worth noting here that public ownership can also protect agency. Public transit helps me move around efficiently and inexpensively, public education helps me to develop my agency at low cost, and public housing can keep me housed, despite the, often massive, failures of the private housing market.
- 6 For a similar point, see Stilz 2014, p. 429.
- 7 Of course, Cuba's achievements neither excuse nor justify its undemocratic government and the government's human rights violations.
- 8 1911 Triangle Factory Fire. Cornell University's ILR School. <https://trianglefire.ilr.cornell.edu/index.html>.
- 9 The Rana Plaza Accident and Its Aftermath. International Labor Organization. [https://www.ilo.org/global/topics/geip/WCMS\\_614394/lang--en/index.htm](https://www.ilo.org/global/topics/geip/WCMS_614394/lang--en/index.htm).
- 10 I thank an anonymous reviewer for pressing me on this point.

- 11 Pursuing justice through a court system, however, is very difficult for workers, consumers, and communities with limited means. A legion of expensive corporate lawyers can often mitigate the damage a company is found liable for. This limits compensation to amounts that are often too small to dissuade large corporations from inflicting harm. The time and expense to bring court cases can be prohibitive, and compensation is little remedy for workers and consumers who die from corporate malfeasance. Worse still, private courts are often overly sympathetic to business interests, since businesses are their main customers. Fortunately, state regulation can effectively *prevent* harm from occurring by inspecting workplaces and consumer products. This is far superior than merely compensating people after the harm occurs. Thus, a private court system would likely not protect the vulnerable and the environment.
- 12 I am sympathetic to Anderson's *relational* egalitarianism. See her 2012.

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## Public Reason Liberalism's Classical Tilt Revisited

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Let me begin by thanking the editors of *Cosmos + Taxic*, guest editor Ritwik Agrawal, and the symposiasts. They have all helped me improve the arguments of *Trust in a Polarized Age*. I can more readily see the path forward for this project. Thank you.

To begin my response, I will review *Trust in a Polarized Age's* main line of argument. A quick summary of the book is this. *Trust in a Polarized Age* (*TPA*) defends liberal democratic welfare-state capitalism. In particular, it defends a range of traditional liberal rights practices, that is, the institutional processes that protect rights.

I provide trust-based grounds for each rights practice. Each practice can create and sustain trust between view-point-diverse citizens. They also create trust in the right way, by which I mean that the institutions are justifiable for many reasonable points of view. Trust for the right reasons arises when an institution creates trust in a way that is publicly justified. Owing to the focus on public justification, I defend a version of public reason liberalism.

*TPA* claims that five publicly justified rights practices sustain trust. These are rights to freedom of association, private property, social insurance, and democratic governance in the form of popular elections and legislation.

### *TPA's* MAIN LINE OF ARGUMENT

Public reason liberalism is a form of social contract theory, which I defend because I think social contract theory provides the best justification of political institutions. However, social contract theory has competing strands, as does public reason liberalism. One difference concerns which relationships we want social contracts to establish (Southwood 2010). On one end, we find Kantian contract theories, which seek relations of citizenship and civic friendship (Rawls 2005). On the other end, we find Hobbesian social contract theories that seek only to establish social cooperation (Gauthier 1986).

I reject both approaches. Kantian theories mistakenly place politics at the heart of social life. There is more to social life than politics. However, many of the same problems posed by political authority arise in moral life. In politics, we use the state to force others into certain lines of conduct, but we do so in the moral life as well. An attractive social contract theory should explain more than social cooperation, but also our moral authority over one another. However, it need not establish civic friendship or agreement on justice.

Hobbesian theories have a different vice—they are too unambitious. As I argue in Chapter 2 of *TPA*, the social sci-

ences show that societies can accomplish more than settling disputes and ending violent conflict. Humans can build high-trust liberal democratic market orders. And they have. I also worry that Hobbesian contracts collapse: instrumental rationality cannot prevent defection from cooperative agreements (Gaus 2011). Fortunately, humans can exceed instrumental reasoning to form trusting relations with others.

I share these concerns with Gerald Gaus, who identified a middle relationship between mere cooperation and civic friendship: moral relationships (Vallier 2022). These “moral relations” hold between typical moral agents and presuppose that people adhere to social norms and enforce them (Bicchieri 2006). Persons in moral relations hold one another accountable for moral errors and often do so with comfortable automaticity.

A Hobbesian approach cannot sustain moral relations. To see why, consider what we learn when we learn that a social contract is instrumentally rational. We learn the agreement helps people pursue their goals even if they do not care about or respect others. In that case, we learn only one fact about the action of persons—that immoral actions (breaches of contract) are irrational. We do not know whether defection is blameworthy—whether it licenses guilt, resentment, or sanction. One party changed their plans. That’s all we know.

But social order rests on moral practices like the enforcement of social norms (Bicchieri 2006). Social cooperation only persists when people share ethical concerns. In short, they will abide by moral rules even when doing so is not in their self-interest. If we settle for an instrumentally rational social contract, we cannot make sense of our practice of holding others accountable. We do not know if we can hold persons accountable for violating agreed-upon rules. We cannot conclude that defection merits punishment. And so, our moral psychology does not play a central role in justifying and stabilizing political power.

A Kantian social contract values moral relations, but only some of them, such as civic friendship and relations of justice. Kantian contracts downplay thinner social ties, like trust. But we struggle to cooperate with people with diverse perspectives, so we cannot expect society to sustain rich relations between us. That is because Rawls’s insight that people reasonably disagree about the good life extends to reasonable disagreement about justice, as I argue in chapter 1 of *TPA*. We cannot agree on a shared conception of justice or even of citizenship. So we must settle for less.

A social contract based on moral relations is neither too ambitious or too unambitious. Its aim is just right. But to show as much, we need an account of what moral relations are. Gaus did not define the set of moral relations. He only mentioned a few of them. These include love, friendship, and trust. Gaus wrote about love and friendship at length (Gaus 1990). But people in large, diverse, complex orders cannot share love or friendship, nor did Gaus claim as much. Their relationships are much thinner than love and friendship. And so, in my mind, the only moral relation available to members of such orders is trust, and Gaus had said little about it.

Trust is a powerful moral relation. First, it can unite diverse persons on shared lines of conduct. Second, it reaches beyond instrumental rationality without supposing rich social relations like civic friendship. Based on these observations, I develop a social contract theory to establish two forms of trust: social trust (trust in strangers) and political trust (trust in government). I wanted to identify the constitutional orders that many perspectives can endorse. Once we live within such a scheme, each has her own reason to honor its recognized rights, and when they those honor rights, they signal their trustworthiness to one another. Each shows she acts on moral motivations, even if her motives differ from others. I developed these themes in *Must Politics Be War? Restoring Our Trust in the Open Society* (Vallier 2019).

But my argument in that book was merely theoretical. I did not address empirical matters. As I wrote the sequel, what would become *TPA*, I realized I could expand my defense of a trust-based social contract by drawing on the empirical literatures on trust. Social scientists have some good ideas about creating and maintaining these forms of trust and so, by extension, they could help determine if liberal order can sustain moral relations. In the previous book, I argued liberal constitutional rights rationally justify trust. People can maintain trust despite their differences if they act from their convictions. But we also want to know whether liberal order creates real trust in the world. I wrote *TPA* to address that question.

So, I use empirical literature to create an interdisciplinary study of trust. The promise is great. With a unified inquiry, we might vindicate liberal order on empirical and normative grounds.

However, that inquiry requires hard work. Theorists need shared concepts, and a strategy for appealing to the empirical literature. In *TPA*, I draw on the empirical literature by identifying the scholarly consensus about whether a rights practice supports relations of trust. If trust researchers agree on some causal relationship, I take it for granted and return to normative questions. I then ask whether those institutions are justified for the public. I conclude that a liberal rights practice can both *cause and justify* trust. That means liberal order maintains real trust for the right reasons. And so we reach the book's central question: can liberal order sustain trust for the right reasons? Can we show that different liberal institutions both justify trust and cause it?

I do not draw certain conclusions from the trust literatures. Instead, I have tried to put the moral and empirical literatures into contact with one another, which I hope will one day shed some light on the nature and justification of cooperative social orders.

My general aim is to vindicate liberal order, yet my arguments tilt liberalism towards certain strands in the tradition. My multi-factor approach to public reason vindicates a kind of classical liberalism; public reason tilts against the egalitarian liberalism of the extensive state, a point my critics focus on. So let me turn to address this matter in earnest.

## PUBLIC REASON'S CLASSICAL TILT

In *The Order of Public Reason*, Gaus argued that public reason has a classical liberal "tilt" (Gaus 2011). In short, public reason favors limited government, contra Rawlsians, who think public reason vindicates a strong redistributive and administrative state (O'Neill and Williamson 2012). Gaus countered that diverse reasoning undermines state coercion; such force cannot achieve public justification. Gaus also argued that some rights exist to cope with disagreements. They help us avoid infeasible collective decisions. Private property rights illustrate. We disagree too much to decide how whole societies should use their property. So we decentralize decision-making to particular units of property.

In *The Open Society and Its Complexities*, Gaus provided an additional rationale for classical liberalism (Gaus 2021). People cannot predict the outcome of macro-level policy. Even if diverse societies cannot accept classical liberalism, most coercive policy resists justification.

I, too, think public reason has a classical tilt. My argument, however, is cumulative: many modest arguments gradually tip public reason in a classical direction. I now review those arguments as they appear in *TPA*. The order, I think, is essential. I proceed this way because most symposiasts reject the classical tilt. So, once I have outlined public reason's classical tilt, I will answer their objections.

I begin with an outline of my conception of public justification. First, I adopt a convergence conception of justificatory reasons, which means people may appeal to diverse, unshared reasoning in public justification (Vallier 2014). Likewise, diverse reasons can defeat the case for coercion. Second, I adopt moderate idealization. Justificatory reasons are those a person affirms with improved information and reasoning, not perfect information and reasoning.

Third, given diverse reasoning, evaluative pluralism applies to disagreement about the good *and justice*. Indeed, reasonable disagreement even applies to empirical disputes: sincere and informed people disagree and even expect different outcomes from the same public policies.

The range of reasonable views about justice is broad. Libertarians have reasonable beliefs about justice and how markets work. The same holds for socialist egalitarians. *TPA* asks if groups containing so much diversity can converge on common rules. If so, I conclude they can trust one another despite their differences.

The justification of rights faces a hurdle from defeater reasons. These reasons undercut or rebut the case for rights. Since I allow so much diverse reasoning, I recognize a panoply of diverse defeaters for rights. To get traction on this complex problem of diverse justification, I then appeal to a veil of ignorance model. I assess abstract rights with a *thin* veil. Parties know everything about themselves besides their relative power

and social status—the thin veil places parties in a risk-averse mood. Parties then adopt protections that they extend to others on equal terms.

The first group of justified rights are agency rights—rights to form coherent projects, plans, and commitments. Such rights include the use of one’s body and forming intimate relationships.

These rights include both negative and positive liberties. Some agency rights require that states and other citizens not interfere with the use of one’s agency, whereas other agency rights require that states help people develop their agency. Note that neither negative nor positive rights have priority over the other. Yes, public justification must overcome a presumption in favor of negative liberty, but positive rights can meet the presumption. My goal in *TPA* is to locate rights that advance positive and negative freedom together. But that does not imply that negative liberties matter more than positive ones, which means that Eric Rowse’s contention that I prioritize negative rights is false (Rowse 2023, p. 50).

The next stage of rights justification focuses on freedom of association: people may use their agency to form larger groups. These rights, too, have positive and negative elements. We secure for persons the resources to form their own organizations. This right covers civil and commercial bodies. Commercial associations seek the right to profit from their endeavors, and so, justified commercial associations help justify a right to productive resources. At least for small proprietors. These rights also include freedom of occupation and home ownership, as both rights help most small businesses get off the ground.

Here Christie Hartley and Lori Watson (Hartley and Watson 2023, pp. 8-10) ask about the problem of diversity within associations, which I will turn to below. My defense of freedom of association nonetheless provides a powerful bulwark against state power. We have negative and positive liberties to form associations that limit state power, and freedom of association includes the right to own capital and pursue profit.

Agency and associational rights require private property rights. We need personal property to exercise our negative and positive liberties, and this need justifies both strong property protections and modest forms of redistribution. Redistribution helps secure some property holdings for all. Individuals need stable, predictable property rights, and states must not disrupt the use of those holdings without good cause. The same goes for protecting the autonomy of families, churches, and small businesses. States must stand aside.

Private property also has a jurisdictional public justification because it allows individuals and small groups to make their own decisions, decisions they could not have made collectively. We can see this fact illustrated in the difficulty socialist governments faced. Indeed, as William Edmundson points out, few liberal socialists still favor central planning (Edmundson 2017).

Another basis for private property is the easily ascertainable information that market economies produce enormous wealth. This fact is a boon to people across the political spectrum. For libertarians, people gain access to private wealth. For social democrats, the state has more resources to provide goods and services. Growth is good from most ideological standpoints.

I capture this broad commitment to growth in my *principle of sustainable improvements*. One public justification for a policy is that it creates sustainable economic growth. *Sustainability* is critical. Markets and governments must manage resources and limit negative externalities, so if carbon emissions, say, endanger global health, states can tax to internalize them.

Diverse reasons also limit property rights. Non-libertarian members of the public have defeaters for libertarian-grade property rights since those rights require coercive protection. But for many non-libertarians, such force is defeated. The net effect of these defeaters is to commit the public to what I call *the principle of social insurance*. All but the most radical libertarians agree that government should provide safety nets, as people must not suffer resource deprivations through no fault of their own. Thus, the public should be committed to providing social insurance against major life risks.

Now, the principle of social insurance has limits. Economic conservatives might have defeaters for unconditional redistributions, like a universal basic income. They could object on moral grounds, like that a basic income is unfair, or they could object, say, based on fear of corrupt redistributions.

Beyond social insurance, state intervention becomes harder to justify. Members of the public can agree that at least some regulations increase coercion, and these need public justification. (Coercion-reducing reg-

ulations do not require public justification.) We must also worry about the state's provision of public goods, as coercive taxation finances them.

We need a *policy epistemology* to justify regulations and public goods provisions. A policy epistemology specifies standards of evidence that help citizens determine whether a policy will have a particular effect. Policy prediction is fraught, and so, few policies will survive policy epistemology. Owing to the complexity of social systems (Gaus 2021), we seldom know the impact of state power. To evaluate the effects of a coercive proposal, then, requires evidence we often lack.

I must also address the individuation of public policies from one another. How do we determine the level of individuation at which we justify laws and policies? Why not publicly justify at a coarse-grained level? We could justify entire constitutions. In *TPA*, I defend a narrow principle of individuation. Individuation is fine-grained. Put another way, public justification addresses small units of coercion we can causally distinguish from one another. We justify norms, laws, and regulations, not constitutions and entire legislative acts. That means blanket state actions do not receive an up-or-down evaluation: each piece of state action requires an assessment. And these assessments might turn up defeater reasons.

Public choice economics teaches that large bureaucracies invite rent-seeking, as bureaucrats and private parties use their power to limit competition and wealth creation (Mueller 2003). Current patterns of rent-seeking suggest that large bureaucracies invite regulatory capture where regulated groups co-opt and staff the regulating body.

However, these considerations do not all favor libertarianism. We may need strong states to stop corruption, states that can resist capture by private groups (Lindsey and Teles 2017).

Next I turn to questions raised by economic inequality. I do not think economic disparities in the market corrupt the democratic process since democratic corruption exists in societies with high redistribution and an extensive state. Only particular kinds of inequality create these problems. The main threats are inequalities that arise from rent-seeking and resource extraction, as we see in nations with a resource curse. So, states should suppress some inequalities owing to exploitation. But they should not narrow inequalities due to their intrinsic unfairness.

States can also reduce inequalities that arise from coercion. Some coercion induces anti-competitive practices and upward redistribution, like housing regulations that deprive the poor of affordable housing. Public reason theorists cannot justify these regulations. Public reason *can* address economic inequality, such as in real estate holdings, but non-egalitarian citizens will undermine the justification of redistribution based on the intrinsic unfairness of inequality.

We now reach my assessment of proposals for a more extensive state. I address two: property-owning democracy and liberal socialism. Property-owning democracy takes the welfare state and adds caps on private capital holdings, caps that apply to corporations and individuals which welfare state capitalism does not impose.

I argue against capital caps on three grounds (Vallier 2015):

- They reduce the incentive to produce capital that can benefit everyone.
- They distort the informational function of prices because caps prevent capital prices from signaling where society should reinvest capital.
- Caps invite rent-seeking, as people have strong incentives to control the cap.

To defend egalitarian public reason, one should instead focus on workplace coercion. Many activities in capitalist markets constitute coercion, such as when bosses sexually harass their workers. Workplace regulations protect people from coercion, so such restrictions are easy to justify, which includes rules meant to stop workplace coercion in advance. Such regulations protect unionization, in my view. These regulations are no mere concession to egalitarians, as classical liberalism has strong pro-worker strands (Zwolinski and Tomasi 2023). Public reason liberalism favors the weak.



Nationalization and government control serve as auxiliary protections for workers, at best. Nationalization can reduce efficiency. Publicly owned firms can strengthen the hand of capital. They are, after all, typically monopolies. Democratic voting is too distant from these bureaucracies to check government power. That means public reason might allow policies that directly favor workers. It might favor corporatization, where workers have guaranteed shares in their workplaces. Elizabeth Anderson has defended these arrangements (Anderson 2017). However, worker risk aversion may make corporatized firms less innovative, and if so, the principle of sustainable improvements may limit corporatization.

We must now examine the justification of coercive taxation. Public reason yields extensive protections for property rights, and these protections hold especially firm for the middle and working classes. Government redistribution faces limits within a system of agency, associational, and jurisdictional rights.

The harm of taxation is weaker for the rich. High taxes on the rich reduce their options far less than taxation on those with fewer resources. Further, the rich often gain their wealth through illicit means. Wealth may arise from uncompetitive marketplaces or government subsidies, and so, these holdings may not receive legal recognition and protection.

The state has productive functions: it must produce public goods on behalf of the public. Markets can underproduce public goods. However, my work is one of non-ideal theory, which means I do not assume that government officials and citizens usually comply with the law or the requirements of justice. That means we must worry about government failures as often as we worry about market failures. We should allow markets to underproduce public goods if government provision is worse.

Education illustrates (if it is a public good). School vouchers give parents and students more choices, so they have more negative freedom. And they can pursue schooling that fits their values and ideals—more positive freedom. Vouchers help manage evaluative pluralism in schools. Worries about teaching intelligent design in schools have weakened as home schools have expanded. Market provision may be better than government provision overall.

Risk of corruption also favors limited government. Often, governments misuse and misdirect funds to benefit themselves and their allies. Ideally, government agencies have little power. In those cases, few private groups have cause to co-opt them. But we cannot always stop corruption through limited government, as states can sometimes overpower private capital. In those cases, corruption might lessen. Housing policy in California illustrates: decentralized zoning created massive economic inequalities—the rich zone their homes to grow their wealth (Lindsey and Teles 2017). But the California state legislature now allows for building dual-family homes, which reduce rent-seeking by shifting housing policy to the more powerful state government.

Housing policy helps to illustrate other parts of classical liberal public reason.

Strict residential zoning restrictions face a staggering array of defeater reasons. Zoning restrictions limit negative and positive liberty and harm agency, associational, and jurisdictional solutions to social problems. They produce corruption, restrict economic growth, and redistribute wealth upward. Public reason recommends freedom to build homes.

Now I turn to the structure of the democratic process. I share classical liberal concerns that electoral mechanisms misrepresent the public will, but these risks imply that we must improve democracy, not abandon it. I recommend democratic deliberation through mini-publics. These groups deliberate in small numbers with excellent access to information and publish their arguments to influence the public. They would gather necessary information by drawing from experts, prediction markets, and super forecasting groups. Current democratic deliberation has problems, but perhaps we can fix them.

However we conduct democracy, we *must* conduct it. All members of the public have primary procedural rights, which include both legal and political rights. Agency, association, and jurisdictional rights require a practical, equal right to vote. They also entail the right to run for office.

I conclude my overview of the factors that tilt public reason in a classical direction. I did not write *TPA* to vindicate classical liberalism. But *TPA* has elements that comprise a cumulative argument for the position.

I should also remind the reader of one of my online appendices to the book. I argue that radical groups, like libertarians, merit exemptions from extensive states because states owe sincere radical groups the chance to experiment with new social forms. These groups could justly demand the resources to create local political units. Charter cities are one example. In this way, classical liberal public reason creates space for radical libertarianism, as well as socialist experiments.

I can now respond to Hartley and Watson, Hanley, Lehto, Edmundson, and Rowse. I am concessive towards Hartley, Watson, Hanley, and Lehto, and less so to Edmundson. Rowse, I fear, misunderstands me.

## HARTLEY AND WATSON AND HANLEY

Hartley and Watson raise some critical concerns. First, they worry that I am silent about the place of children in public reason (Hartley and Watson 2023, pp. 11-12). This is fair. I do not address how children figure into public reason because I only adopt liberalism as a set of standards that govern adult relationships. Theorizing about children is complex, and I had little room to say much of interest. But, I am studying how trust forms in adolescence. In future work, I hope to address the questions Hartley and Watson raise.

Second, I defend freedom of association partly because associations predate the nation-state, and Hartley and Watson question the relevance of this historical claim (Hartley and Watson 2023, pp. 10-11). In reply, recall that my theory allows social practices to select publicly justifiable proposals. Social evolution can select publicly justified rules, which includes the evolution of associational norms. So, why does history matter here? My theory allows actual social practices to choose between publicly justifiable proposals. Social evolution can coordinate people on publicly justified rules, and associational norms face similar selection effects. Their development can land on rules justified for their members, and association development indicates how they solve problems of public justification. That is, history shows how associations solve public justification problems, and since they often solve those problems, the state has no grounds to intervene.

The record of those solutions creates a barrier against state power. As history illustrates, states often have no grounds to intervene in associational life coercively. That's because humans can form associations together without state intervention. And so, states should only use their power to solve problems that the civil order cannot.

Hartley and Watson (2023, pp. 6-7) question my argument that freedom of association creates trust. I defend my position with a literature review on trust and intergroup contact, and they argue that the literature review does not support my argument. The review only shows that intergroup contact reduces prejudice under limited conditions. It may not show that associations create trust.

I reply that state policy can help create conditions where intergroup contact reduces prejudice. For instance, state policy can help associations engage in trust-building communication. Hartley and Watson may be surprised to learn that I am open to such policies, at least non-coercive ones. I can envision subsidizing intergroup contact to help "bonding" organizations perform "bridging" activities, like soup kitchens. In soup kitchens, middle-class people often serve the unemployed poor.

Hartley and Watson (2023, pp. 8-10) focus most on diversity within organizations. They argue that my standard of sub-public justification may not protect oppressed people within associations. Or else my standard allows for more limits on freedom of association than I allow.

As it stands, my approach can accommodate many complaints from oppressed members of associations. If unjustified relations persist within organizations, the state may intervene. So the issue is one of frequency and severity: how often may the state interfere, and with which means? Maybe public reason should allow more state intervention if we attend to in-group diversity.

I think the devil is in the details. But let's begin with a case where Hartley, Watson, and I agree. Consider the sex abuse crisis in the Catholic Church. The church did not adequately protect members from abusive priests, as bishops often moved abusive priests to other parishes. They too rarely reported these

priests to state authorities. In that case, Catholic parishioners had defeater reasons for the church's abuse policy. Prosecution of abusive clerics had to come under state jurisdiction. But how much? Again, I can't say.

Easy enough, but my view faces a more challenging case. Let's stick to Catholicism. Many, many Catholics support the ordination of women. Many Catholics may have defeater reasons for prohibitions on women's ordination. Should states force the church to ordain women on this basis?

No. One problem with state intervention is that the Catholic Church has *constitutive* rules. These rules make the organization what it is. If the state forced the church to ordain women, it might destroy the institution. The issue is pivotal: the church may formally self-destruct even without losing members. For Roman Catholics, the state cannot make it the case that women can receive the sacrament of holy orders. Only God dispenses the sacraments. No state action can successfully make Catholicism ordain women. If the state allowed women to perform masses, those services would become faux services—they would not count as masses.

But some organizations have severe internal disagreements that states must resolve.

Consider, for instance, a schism within Protestant denominations that produces disputes over church property. In that case, perhaps the dissenting congregations should keep their long-held churches, as national leadership lacks authority owing to policies that parishioners may reasonably reject. States could rule in favor of local churches in property disputes.

Ryan Hanley (2023, pp. 32-3) adds another vital problem of in-group diversity and freedom of association. What of diversity within universities? In-group diversity may need state intervention to protect its unpopular minorities from majorities. The university system should create and spread knowledge and do so by way of open discussion. Majority opinion can, as we know, marginalize truth from the margins. Public universities, in particular, may need social policies crafted to protect ideological minorities since the conduct of public universities is the taxpayer's business. So here I admit that if we wish to preserve liberal order, we may need state intervention in university life. Though, I hope, with a light touch.

In sum, whether in-group diversity limits freedom of association depends on context, and I don't know if diversity is broad enough to undermine the level of freedom of association I defend.

## LEHTO

Lehto (2023, pp. 16-17) asks whether a universal basic income can be publicly justified. In *TPA*, I suggest not. Conservative citizens have reasons that limit the principle of social insurance. To them, one cannot give social insurance to people with no strings attached, as that would be unjust. But Lehto might be correct that a UBI can be publicly justified. Here's why.

Remember that any political proposal can have three justificatory valences. 1. A proposal is defeated when some members regard the proposal as worse than no proposal. 2. A proposal can be justified, but not uniquely, such that it is better than no proposal and some alternative proposals. 3. A proposal can be optimally justified. It is the best of all undefeated proposals from the public's point of view. And so, a proposal can have one of two defects: defeat or sub-optimality. Sometimes a proposal can look both defeated and sub-optimal. It can be hard to tell.

I remain convinced that a UBI is not socially optimal; it is either defeated or sub-optimal. However, the evidence that favors a UBI could figure into our policy epistemology, and the evidence may be strong enough to ensure that UBIs are sub-optimal, and not defeated.

A UBI needs public justification because it relies on coercive taxation, but the principle of social insurance allows tax-funded social services. If so, a UBI mode of distribution might lower coercion because officials would not deny people income transfers. Conditional benefits also require that bureaucracies track and sometimes coerce recipients. A UBI avoids such coercion. These factors may make a UBI eligible because a UBI lowers coercion. So I can now see a case that a UBI is in the eligible set of proposals, which I did not see before.

## EDMUNDSON

Edmundson brings his characteristic care to the defense of liberal socialism and worries I may have been too dismissive. I'm unconvinced. Socialism harmed the societies that adopted it, chiefly by reducing innovation, growth, and wealth creation. Liberal socialism after the world wars rested on temporary social bonding. And these social bonds enabled bad policies, though far less bad than command economies.. The evidence is clear. Heavy regulation and public ownership of the means of production damaged many economies.

But liberal socialism faces defeater reasons of several varieties. Allow me to review them.

Our agency and associational rights require robust private property rights, and more extreme forms of socialism violate those property rights. Socialism also creates jurisdictional problems. Only some citizens can agree on the proper allocation of capital.

Edmundson argues for more modest versions of socialism. Liberal socialism only directs government to own the commanding heights of the economy, such as major utilities like power and transport. Fair enough. I agree that a less socialist order stands a better chance of public justification. And it allows most people to hold private, productive assets.

But even this degree of public ownership can undermine economic growth and innovation, thus violating the principle of sustainable improvements. Capitalist welfare states grow faster than societies with considerable public ownership of capital, which is why most nation-states sold off public assets during the neoliberal period (roughly 1975-2008).

Democracy has some priority in determining property rights. However, property rights are powerful, and so democratic governments must respect them almost as strongly as they protect rights of free speech. To protect democracy, then, we must use the toolkit of the capitalist welfare state, but private groups must own the means of production, even if states redistribute wealth.

Let me stress a few more points. Contra Edmundson, I do not see why reasonable political conceptions of justice must be egalitarian (Edmundson 2023, p. 46). I see no good argument in *Political Liberalism* (Rawls 2005). Indeed, in the paperback edition of the book, a reasonable conception of justice can exclude the difference principle and must only guarantee citizens all-purpose resources to live out their reasonable conceptions of the good. Those allowances allow for the justice of less extensive states. I am unsure why reciprocity could rule out welfare-state capitalist regimes.

Edmundson worries a right to productive property implies a right to dominate others. Or that reasonable people could so object. But in *TPA*, I qualify the right to own significant capital assets that plausibly create dominance. So, I doubt this pushes me towards liberal socialism. Governments also lack the right to hold substantial capital assets under similar conditions.

In *TPA*, I expand Rawls's point based on justice pluralism, arguing that we must allow people to explore their conceptions of the good and of justice. One implication of justice pluralism is that open societies should allow self-governing micro-polities. These polities can have very diverse conceptions of justice, and I don't know why reciprocity defeats them. I raise this point to illustrate the power of justice pluralism. People will have defeaters for libertarianism but also liberal socialism, and once we tabulate left- and right-wing defeaters, only welfare-state capitalism remains.

## ROWSE

I now want to respond to Rowse's criticisms at length. Unfortunately, Rowse interprets my project as libertarian when it is not (Rowse 2023, p. 50). His chief error is his assumption that I rank negative over positive liberty. In *TPA*, positive rights often override negative ones, which occurs whenever a public justification occurs. The positive freedom of our reason meets a presumption against interference. Positive liberties override negative liberties.

My aim is to locate policies that protect positive and negative liberties at once. Some positive freedoms are more important than some negative liberties, and I don't know why Rowse thinks otherwise. Markets expand positive rights because they produce more resources and give people more options.

I allow reasonable disagreement about what counts as coercive holdings. That leaves room for redistribution to protect negative liberty, so that the libertarian does not always win in public justification (Gaus 2011). I'm clear about that in the book.

Rowse argues redistributive orders are not at a greater risk of corruption. He claims wealth creates rent-seeking opportunities. Yet, many poor societies have serious rent-seeking, like Brazil, southern Italy, and command economies: people seek rents under many conditions.

My principle of sustainable improvements includes sustainability, which Rowse overlooks (Rowse 2023, p. 53). The principle builds in concerns about externalities. Externalities from growth make it less sustainable, but within the sustainability limit, economic growth is a tremendous instrumental good. It expands the bundle of resources available to all. With redistribution, it can benefit everyone.

I am unconvinced that public reason should favor public welfare over private charity, and I also must disagree that markets fail to provide health insurance. The US federal government has heavily regulated health insurance for fifty years, which is why starting small health insurance firms is too expensive. The paucity of small health insurance firms does not constitute a market failure. To illustrate, consider a related market—the market for car insurance. Such markets face far fewer regulations, and they are competitive and affordable.

I never imply that some people are too lazy or reckless to deserve state benefits. Rowse falsely accuses me of a grave moral oversight (Rowse 2023, p. 51). My view is that conservatives have reasonable defeaters for unconditional forms of redistribution. (Though Lehto may have convinced me otherwise.) Conservative views are reasonable. I disagree with conservative theories on the sources of poverty. As a private citizen of the United States, I hope conservatives will adopt other approaches.

It is also harder to justify larger property holdings than small ones. Defeaters grow more powerful as assets accumulate, so I do not jump from protections for small capital holdings to protections for larger ones (Ibid.).

Granted, I argue against strong coercive regulations. We must take coercive rules and policy epistemology seriously, so I combine concerns about coercion with worries about prediction. Together, they imply few regulations receive public justification. But also remember that other regulations protect rights and so undo coercion. In those cases, regulations are far easier to justify, as there is no presumption against them.

My project is not libertarian. Traditional libertarianism might be the correct theory of justice. But it cannot order a trusting, open society where most reject libertarianism, and nothing in *TPA* suggests otherwise.

## NEXT STEPS: BEYOND THE RATIONAL BOUNDS OF POLITICS

I hope most of my replies enrich the project *TPA* initiates. But my responses share a limitation. They focus on societies where the public shares rich enough moral relations to construct publicly justifiable proposals. Alex Motchoulski probes the usefulness of public justification outside of rich moral relationships in severe moral conflict (Motchoulski 2023, pp. 37-41).

Motchoulski's primary concern, I take it, is this. Sometimes members of the public have conclusive reasons to distrust one another. If so, liberal rights practices may not restore trust. Communities may experience internal conflict when some members reject central moral rules. Deep moral disagreement can lead to severe conflicts, and those conflicts can undermine trust. That is clear. But, Motchoulski argues, some disagreements tempt us to reject one another's moral competence. Members of the public can see one another as friends or foes, but they can also see one another as mere patients, to use P. F. Strawson's term (Strawson 1974).

I had not considered how trust interacts with judgments of moral competence. Seeing others as mere patients might produce a breakdown in liberal institutions which require that we see others as free and equal. Public reason (of any sort) may prove useless in stopping the spread of those attitudes.

But it would be nice if public reason liberals could show how to arrive at a regime of moral relations. This extension of public reason theory illuminates practices that could make public justification more effective.

Here I am drawn to Michael Moehler's strategy (Moehler 2018). When public reason (Kantian justification) fails, we can fall back on Hobbesian instrumentalist reasoning, where agents find a non-moral bargain to reach a non-moral peace. That is, a *modus vivendi*. But one can then build moral peace once specific conflicts die down. High-trust societies exist; humans have not always trusted strangers, but we often do now. Unfortunately, social scientists do not know much about where social trust arose or how it did so. So I am conducting new empirical work on how people form social trust, and the results are still forthcoming. I hope to honor Motchoulski's insightful piece through that research.

Hartley and Watson (2023, p. 5) also raise a significant challenge to my approach to trust and polarization. In my trust books, I'm agnostic about whether trust is an affective state. I can imagine a calm and collected form of trust that doesn't involve emotional reactions. But most trust has an emotional charge: disappointment and betrayal evoke strong responses. If trust and polarization cause one another, then to address affective polarization, we must address trust's affective dimension.

Here again, we need more empirical work. This time, the problem is how trust affects our emotional states, including those that produce affective polarization. In *TPA*, I implicitly assumed that most trust is affective, and calm and collected trust is rare. Building trust means changing affective states, which could, in turn, address affective polarization. I admit that my argument needs a firmer empirical grounding.

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## Review

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### Authority and Freedom: Reflections on the Recent Kos Collections

CHRISTOPHER ADAIR-TOTEFF

In 2019 and then in 2022 Eric S. Kos edited two volumes of essays devoted to the writings of Michael Oakeshott (Kos 2019, 2022). They are both published by Palgrave, they are roughly the same length, and they share similar-sounding titles: *Michael Oakeshott on Authority, Governance, and the State* and *Michael Oakeshott's Skepticism, Politics, and Aesthetics*. As the titles make clear, the 24 essays cover a wide range of Oakeshott's ideas and each of them make for interesting and illuminating reading. However, instead of attempting to review both books in their entirety, the focus here is on two key themes. Commentators have often remarked that Oakeshott had a tendency to view things as binary; indeed, sometimes as antipodean. It would seem that two of Oakeshott's most important topics would be antipodean: authority and freedom, yet they are not, as it will be shown in the Concluding Comments of this review. The point of this review essay is to examine these two topics and to determine what many of the scholars writing in these two books believe Oakeshott to mean by "authority" and "freedom." One could argue that authority and freedom are the foundations for Oakeshott's philosophy of politics, but that will not be argued here. Instead, this review essay seeks to clarify what Oakeshott experts contend authority and freedom means. The fact that Oakeshott never provided a clearly defined account of these concepts hinders our understanding of his political philosophy. Nonetheless, examining the relevant essays in Kos' two collections will provide an understanding of Oakeshott's ideas concerning authority and freedom. This task is not only worthwhile for reconstructing Oakeshott's political ideas but is itself intrinsically rewarding.

This review essay has three sections. The first and larger section is devoted to the theme of authority whereas the second section focuses on the theme of freedom. While Oakeshott may have been more concerned with the latter idea; the essays in these collections are largely focused on the theme of authority within the frameworks of governance, laws, and the state. The third section is composed of some concluding comments and some final assessments.

## AUTHORITY

In western history, if not history in general, the concept of “authority” has been connected to some entity: God, a Prince, and later, the state. But by the late nineteenth century the notion of the state began to fall out of favor. Plato, Aristotle, Hume, Hegel, and many others all spoke about the “state” as if it were a “natural phenomenon.” But as Agostino Carrino pointed out in his excellent “Michael Oakeshott Philosopher of Skepticism: Conservative or Liberal?” Oakeshott did not (2022, p. 40). In fact, “state” is mentioned only once more in *Oakeshott’s Skepticism, Politics, and Aesthetics* (Tremçev 2022, p. 19). However, the notion of the state is a major focus of several of the essays in Kos’ later collection. If one disregards the lectures that Oakeshott delivered on the history of political thought at the London School of Economics, Oakeshott’s concern is not so much with the history of political thought as it is with the history of modern political thinking (Oakeshott 2006). In his view, modern political philosophy began roughly four hundred to five hundred years ago. Therefore, he has little interest in the authority of the monarchy. Finally, despite Oakeshott’s early interest in religion and theology, he had little interest in it later in life. More importantly, he believed that the belief in God no longer had such an impact on modern political ideas, although he readily admitted that some of the tenets remained. Given that authority was neither divine nor hereditary, he inquired into the source of modern authority.

The notion of authority is found in three essays in the 2022 volume: those by Eno Trimçev, Agostino Carrino, and Attila K. Molnár. Trimçev’s essay is entitled “Under the Law of Ruin: Practice, Aesthetics, and the Civil Association” and he makes clear that his primary focus is on the related ideas of fear and progress. Yet, authority is present in this essay because it not only is important to Oakeshott for the past, but also for the present. Trimçev maintains that authority is “past-oriented” but that rulers seek to cultivate it. He claims this involves two things: the “quest for authority” is separate from the “quest for power” and that the rulers as “custodians of the law” differ from the rulers as “administrators” (2022, pp. 12, 18-20). He explains that the latter are forward looking and always seek to expand their reach and increase their power whereas the former regards authority as backward looking in the sense that the past provides the present with more effectiveness and more wisdom (2022, p. 21).

Agostino Carrino’s title also does not hint that his essay has authority as a major theme. “Michael Oakeshott Philosopher of Skepticism: Conservative or Liberal?” suggests his chapter is on Oakeshott’s politics. Yet, anyone familiar with Carrino’s writings knows that law and authority are two of his favorite subjects. Carrino begins by pointing to Oakeshott’s interest in Germany philosophy—not just Hegel’s philosophy but that of the Neo-Kantian Emil Lask. Lask had been influenced by Heinrich Rickert but around 1910 he began to chart his own way—especially about categories and concepts. Lask was killed on the eastern front in 1914 so it is impossible to determine what his later thinking might have been. Carrino notes that Oakeshott was in Germany during 1923 when Lask’s collected works appeared (2022, p. 32). Carrino also points to Max Weber’s thinking, both in the Is/Ought (*Sein/Sollen*) distinction and in the category of the ideal type (2022, pp. 34-36). Although he does not mention Ferdinand Tönnies by name, he uses Tönnies’ contrast between “community” (*Gemeinschaft*) and “society” (*Gesellschaft*). It is interesting to note that Weber, Lask, and Tönnies were all interested in the philosophy of law. Carrino’s larger concern is how to categorize Oakeshott—whether as a liberal or as a conservative? Carrino argues that Oakeshott was not a conservative in the sense of having a conservative ideology. Not only did Oakeshott disapprove of ideologies, but he embraced scepticism. But Carrino adds that Oakeshott was a liberal because he was “open to listening” (2022, pp. 40-41). Carrino suggests that Oakeshott defies labels: he was conservative and he was liberal; he was a Hobbesian and he was a Hegelian (2022, pp. 42-45). Carrino’s suggestion seems to be that he may have been many things in many respects but he was always Michael Oakeshott.

Where authority was only one voice in the choirs of Carrino and Trimçev, authority is the soloist in Molnár’s essay. This is clearly shown by his title “Authority: Fragments of the Good Regime.” In Molnár’s opinion, authority was a major preoccupation of Oakeshott throughout much of his life. He does qualify this by suggesting that authority was connected to the concept of “good order” but that Oakeshott’s con-



cern with “good order” came mostly after *Rationalism in Politics* (1962). Molnár points out that order involves freedom but freedom generates “imperfections, conflict, and authority” (2022, p. 129). He emphasizes Oakeshott’s conception of human beings as being inherently imperfect which prompts conflict and the need for authority to help defuse those. Molnár does not mention this, but Oakeshott shares the notion of freedom with Hans Kelsen and both of them believed in pluralism and tolerance.<sup>1</sup> Carl Schmitt also insisted on order but his was authoritarian; it rejected pluralism and tolerance in favor of obedience and silence. For Schmitt, law is imposed and it is backed up by power; for Oakeshott (and Kelsen), law is the following of rules. The difference between Oakeshott and Kelsen on law is that the former believed that rules were a matter of practice and tradition whereas Kelsen insisted they were necessarily formal. If Kelsen followed Kant, Oakeshott followed Hobbes. Certainly, Oakeshott likened his early concern with epistemology to that of Hobbes and he always had a high regard for his thinking. But Molnár maintains that not only is Oakeshott’s notion of authority different than that of Hobbes, his is “more radical” because Oakeshott rejects the notion of sovereignty and insists that “final authority belongs to the beliefs of the subject.” However, two pages later he emphasizes “*Authority is not delegated from the subject to the ruler*” so it is difficult to reconcile these statements. Similarly, it is difficult to understand Molnár’s insistence that “Authority as such is absolute” (2022, pp. 133, 137).

Molnár devoted several pages to Oakeshott’s 1929 essay “The Authority of the State” but it was Carlos Marques de Almeida who used the phrase in the title of his essay in Kos’ earlier collection. In “The Authority of the State and the Traditional Realm of Freedom” he discusses the opposition between the need for authority and the desire for freedom or as he also describes it as “the pole of civil association” and “the pole of enterprise” (2019, pp. 112-113). De Almeida provides more than just this definitional opposition; he also offers a brief overview of the history of authority. Beginning with the divine authority that kings claimed, he moves quickly through history before addressing authority in the modern European state. While he agrees that governments exercise “power, force, and even violence” he adds that “to rule is to enjoy authority” (2019, pp. 118-119). De Almeida emphasizes Oakeshott’s contention that authority does not suddenly appear but is developed over time. Oakeshott rejected a foundationalist conception of authority and insisted that it was based upon tradition. Similarly, freedom is not an abstraction but “a way of living” (2019, pp. 120-121, 123). This is similar to what Jordan Rudinsky says about authority. Much of his “‘Anarchic and Antinomian’ Oakeshott and the Cambridge School on History, Philosophy, and Authority” is spent on topics other than authority, Rudinsky does offer a brief account of Oakeshott’s conception of authority. He maintains that it is fundamentally Hobbesian in that authority is determined within an original system of laws. Rudinsky suggests that setting out the first part would be rather easy but giving an account of the second part would not be. What he does suggest is similar to what de Almeida has indicated—Rudinsky writes “The foundation of authority, then, is simply everyone’s recognition of it” (2019, p. 136). What Rudinsky and de Almeida do not address is the foundations which provide authority with legitimacy and that is one topic that David D. Corey takes up in his essay.

In “The Problem of Liberal Political Legitimacy” Corey notes that one of the most basic and most critical questions in modern democracies is the question of “*political legitimacy*.” This is the question “Who or what gives *you* the right to rule me?” and Corey adds that Oakeshott was “deeply concerned about political legitimacy” (2019, pp. 45-46). Since Oakeshott considered this a moral question, it could not be answered with “by success” because that would be an immoral answer. Force and authority are not the same thing. But Corey’s concern is not so much with Oakeshott’s concept of legitimacy as he is with providing an historical account and then offering his own theory. He discusses John Locke’s “consent theory”, John Rawls’ “hypothetical consent theory”, Joseph Raz’ “benefit theory” and Christopher Wellman’s “benefit theory”, and finally “procedure theory.” Corey returns briefly to Oakeshott in the conclusion in which he suggests that Oakeshott’s theory that civil association provides legitimacy but adds that that theory is neither very clear and nor ideal (2019, p. 69). There is no doubt that the issue of legitimacy is one of the thorniest problems in modern political thought and there is little question that it preoccupied almost all defenders of

modern democracy. It is to Corey's credit that he wrote this essay but it is unfortunate that little of it is devoted to Oakeshott.<sup>2</sup>

The first and third sections of Timothy Fuller's "Taking Natural Law Seriously Within the Liberal Tradition" seems to follow Corey's focus on scholars other than Oakeshott. The focus in the first section is on Ronald Dworkin and that in the third section is on John Finnis. However, the second section is devoted primarily to Oakeshott. Fuller contends that some defenders of the rule of law look to the notion of utility to provide a justification; he notes that Dworkin is one who rejects that account. Fuller maintains "The most uncompromising defense of the rule of law on non-instrumental grounds is to be found in the writings of Michael Oakeshott" (2019, p. 94).

In Fuller's interpretation of Oakeshott's notion of law, the basis is neither abstract reasoning nor practical applications; rather, it is a matter of "practices." Fuller then devotes six pages to outlining Oakeshott's conception and he bases it on *On the Human Condition*. There are neither theorems nor programs, but an understanding of what it means to be a citizen and to live within a civil association. These people are neither coerced nor bribed; nobody has the power to force them and no one has the means to entice them. Rather, people have been raised to function within the civil association. Fuller admits that Oakeshott's account is rather "ideal" but he insists that this must not be taken in the sense of progressing towards some ideal end. Fuller concludes the second section with a quotation from "The Rule of Law": Rule "in respect of the recognition of their authenticity" (2019, p. 100; Oakeshott 1999, p. 161). If nothing else, Fuller's account should prompt serious readings of "The Rule of Law" if not *On Human Conduct*.

Fuller's discussion of the rule of law is related to the notion of political realism, which is the central theme of Gülçen Seven's "Michael Oakeshott's Political Realism." Seven begins by discussing the various senses of political realism and his main claim is that the realist distinguishes between the "is" and the "ought" whereas the idealist dreams about the world as it should be while the realist accepts the world as it is (2019, pp. 151-154). Like Corey and Fuller, Seven discusses different theories but in the third section he turns to the discussion regarding the most appropriate label to put on Oakeshott. This discussion is related to the one given by Carrino, but unlike him, Seven is reluctant to offer a definitive label. Instead, Seven notes the difficulties in determining where Oakeshott should be positioned and he suggests that some of that is due to his ambiguity and some of that is due to his binary thinking (2019, pp. 160-161). She points specifically to Oakeshott's distinction between the politics of faith and the politics of scepticism and she argues that Oakeshott's dismissal of the former is not so much based upon the idea of perfectibility as it is with the concept of telos. But Seven also points out that in contrast to many other political realists, Oakeshott was convinced that "theory has *nothing* to offer to real politics" (2019, p. 163). That is also an indication of Oakeshott's "anti-absolutism" but Seven contends that *The Politics of Faith and the Politics of Scepticism* may be the best work to provide an account of the role that understanding plays in his political thinking (2019, pp. 164, 166). Seven does not rue Oakeshott's claim that political thinking cannot provide guidance; rather it achieves its purpose of offering understanding (2019, p. 168).

The concept of the state appears again in three other essays but the three authors approach the notion from differing points of view. James Alexander argues that Oakeshott was following in the tradition of modern politics to provide "the key to any theory of the state" (2019, p. 11). This key is indicated in his title: "The State is the Attempt to Strip Metaphor Out of Politics" and that entails providing a theory of the state "as if it is written on a blank slate." The question is what is a state and Alexander repeats Oakeshott's repeated claim that the state is not a government (2019, pp. 12-13). He maintains that Oakeshott conceived of the state in two ways: in a bold and Hegelian way and in a subtle and original way. The first one is that the state is the condition of all action and the second one is as an entity that grows out of the conditioning. Alexander admits that these two are in tension but he insists they are "remarkable concepts" (2019, p. 14). Alexander also indicates that this conception is a later one and he discusses two other ones: the early one from the 1920s in which "The State is the whole of moral and social experience." This is Hegelian and far different from Weber's theory that the state possesses the "legitimate monopoly of violence." The second one seems to come from Oakeshott's time at LSE in which he thought of a state as a territory with its inhabitants be-

ingf governed by an authority. It is the third one that is late and is found in *On Human Conduct*. Alexander points to Oakeshott's duality of *universitas* and *societas* but his larger point is that Oakeshott thought of the state in terms of "standing" ("estate") and that the state has several meanings. It is original and that it has always existed—"It is not so much an idea as the cause of our ideas" yet it has "no independent origination". What it does have, and has had for the last five hundred years is "conceptual confusion". Oakeshott came to realize how difficult it is to say what a state is; he recognized that "it was a riddle for the understanding" (2019, pp. 32-33). It is one of Oakeshott's great achievements to recognize the confusion regarding the notion of the "State" and to understand that the attempt to "strip metaphor out of politics." Because "Language makes it impossible. Politics makes it ridiculous" (2019, p. 36). This brief discussion does not do justice to Alexander's essay which is rich, informative, and challenging.

Much the same can be said regarding Gary Browning's "Oakeshott on the State: Between History and Philosophy." Browning notes that Oakeshott was a philosopher and an historian and that history and philosophy are fundamentally different (2019, p. 75). He insists that Oakeshott recognized that they complimented each other and that both had value. Browning emphasizes that Oakeshott "blends historical and philosophical expertise" and that "his account of the modern state" "is at once philosophical and historical" (2019, p. 84). If Alexander looked to the Greeks for helping to understand Oakeshott's conception of the state, Browning looked to Hegel (2019, pp. 80-81, 83, 84-85).

Agostino Carrino's 2019 essay is also rich, informative, and challenging not the least because he approaches Oakeshott's notion of governance from the vantage point of a jurist. In "Global Governance and the 'Clandestine Revolution'" Carrino notes that the term "governance" has acquired a new sense, one in which old concepts such as "sovereignty", "authority", and "decision" have been replaced with a "new liberal revolution" in which human rights would lead to a peaceful and rational world (2019, pp. 191-192). However, this "anti-political utopia" has been collapsing on itself and Carrino notes that Oakeshott was one of its main critics—focusing on the twin difficulties of teleology and rationalism. Although Carrino's focus is more on the issue of governance than on Oakeshott, his comments about the differences between faith and scepticism are important as are the differences between *lex* and *jus*. He suggests that Oakeshott was not always clear about these terms but he underscores the shift from the rule of law to the notion of natural law. He also stresses the modern movement from the "Legal State" to the "Judicial State" and he warns that the state loses its authority (and its legitimacy) (2019, pp. 196, 199). Carrino does not mention here that this was something that occupied Oakeshott but he does stress that this type of "judicial activism" and "human rights imperialism" not only undermines the rule of law, but "limits more and more the individual's freedom" (2019, p. 199). That is, according to Carrino, "the postmodern judge" is in possession of "this universal reason" and dispenses with the concrete rule of law. This is the inverse of what Oakeshott thought was best: the rejection of some abstract, universal reason by the acceptance of "positive rules" and tradition. Carrino regrets that this process from a legal state to a judicial state may not be stoppable. He laments that the activist judge relies on what his social consciousness tells him what is right rather than relying of the laws to tell him what is legal. Carrino speaks in a most Oakeshottean voice when he insists that "we have at least the moral duty to understand and expose what is going on" (2019, p. 205).

## FREEDOM

Given the importance of the idea of freedom over the past three hundred years and given Oakeshott's interest in it, it is somewhat disappointing that it is not pronounced in these essays. Much of that can be explained by the concepts included in the titles of both collections: "Authority", "Governance", "State", and "Politics." It is also true that only de Almedia's essay includes the word "freedom." Yet, the notion is in the background of several other essays. The starting point will be a return to de Almedia's essay but now with the emphasis on "freedom" instead of "authority."

De Almedia's concern in his third section is on individual freedom and he notes that Oakeshott was more than happy to admit that his conception of human freedom was not exactly novel but belonged in the

lengthy tradition of inquiries into its nature and its purpose. But de Almedia maintains that Oakeshott's conception was neither an abstraction nor a dream but was "a way of living" (2019, pp. 120-121). He suggests that Oakeshott believed that there are a number of freedoms: the freedom to choose, the freedom to associate, the freedom to assembly, but the greatest freedom is the freedom from coercion (see 2019, pp. 114, 121). De Almedia maintains that there are two conditions which need to apply in order for the individual to enjoy freedom. The first is what he calls the "Burkean Clause" which is the freedom from domination. The second is what he calls the "Lockean Clause" which is the freedom to live within a diffused government. There is little difficulty in understanding the "Burkean Clause" but the "Lockean Clause" needs some clarification. De Almedia indicates that Oakeshott's conception of such a state is one in which power is not centralized but is diffused or shared among a number of actors. He clarifies further that it is not a single authority which determines right and wrong but the rule of law and he insists that the removal of the threat of centralized power is "the greatest single condition for the enjoyment of freedom" (2019, p. 122). Much of Oakeshott's concept of freedom mirrors many other proponents of freedom; however, his idea lacks the notion of end or purpose. That is, in his view, there is no final goal for humans; there is simply the activity of being free. De Almedia also notes that Oakeshott's conception also lacks an origin; there was no single point in time when humans suddenly discovered freedom. Rather, there has been a long movement towards freedom and that traditions helped provide for the steady rise of freedom. Again, this should not be taken to mean that there is a planned road to freedom; rather, that there are times and places in which some individuals have enjoyed the various types of freedoms that other individuals have enjoyed at other times and places. De Almedia maintains that there are four principles for freedom: 1) the principle of *continuity*, 2) the principle of *consensus*, 3) the principle of change, and 4) the principle of identity. The first is the notion that society will continue in much the way it has and the second is that the members of society are mostly in agreement in how the society has functioned and should continue to function. The third principle is the recognition that change is inevitable and the fourth one is the need to strike a balance between change and stasis (2019, p. 123). De Almedia's account of freedom is necessarily brief but is an accurate and an impressive account of Oakeshott's idea of freedom.

Other comments on freedom appear in both books but in the earlier collection they tend to be in conjunction with the notion of the collective. For example, in "Three Different Critiques of Rationalism: Friedrich Hayek, James Scott and Michael Oakeshott" Shekhar Singh compares Oakeshott's notion of freedom with that of Hayek. Both believed that there was freedom from the central authoritarian state but emphasizes that what is important for Oakeshott is the matter of freedom of choice (2019, pp. 210, 212, 217-218). The notion of the freedom to choose is also found in Browning's essay. There, he insists that it is imperative that people are "free agents" who undertake "freely self-chosen individual actions" (2019, p. 83). The notion of "free agents" is also emphasized by Seven in the 2022 essay: that a "free agent" is self-reflective and understands one's self and has the capacity to act based upon that understanding. The "free person" lives according to one's own powers and limitations (2022, pp. 204-206). Molnár addresses human limitations and freedom in his 2022 essay as well. For Oakeshott, conflict was an inherent part of human interaction: "freedom and conflicts are elements of imperfection" and that the world is opaque but is free (2022, pp. 129-130). Thus, Oakeshott believed in human freedom; the freedom from the despotic domination of reason and the freedom for the opportunities to associate, to speak, and above all, to choose.

## CONCLUDING COMMENTS AND FINAL ASSESSMENTS

In the introduction above there is an allusion to the binary, if not antipodean, contrasts which are often found in Oakeshott's writings. Perhaps one of the clearest is his contrast between the politics of faith and the politics of scepticism. In the "Introduction" to *The Politics of Faith and the Politics of Scepticism* Oakeshott referred to the two types of politics as being "poles" (Oakeshott 1996, pp. 19, see also 90, 112, 127). Oakeshott argued that one pole may be dominate but it is never able to demolish the other; hence, there has been a process of change between the two poles. It is similar with respect to Oakeshott's opposition between authority

and freedom in that there have been periods in which one side dominated. In this case, authority of various kinds ruled throughout much of history; it was only with the dawn of the modern age that freedom had more strength. But where Oakeshott came down squarely on the side of politics of scepticism, he believed that freedom needs authority in order to exist. It is beyond the scope of this essay to set out a defense of this claim; instead, here it must suffice simply to suggest that in Oakeshott's view, authority without freedom is despotism and that freedom without authority is anarchy. The politics of faith demands full control but as Oakeshott reminds us "The sceptical style of government is not anarchial: the extreme here is not 'no government', or even government reduced to the smallest dimensions" (Oakeshott 1996, pp. 105, see also 114-115). Oakeshott's insistence that the two types of politics "are not merely opponents, but partners" applies equally well to "authority" and "freedom."

There is no substitution for reading an author's works and this is true regarding those by Michael Oakeshott. His writings have the additional benefit of his style and wit. In contrast, much secondary literature is written in a dry and pedantic style and often confuses more than they clarify. Happily, the essays in both of Kos's collections are exceptions to this general rule: they have some of Oakeshott's wit and they serve to clarify a number of Oakeshott's key concepts. Anyone wanting to gain a clearer understanding of Oakeshott's notions of "authority" and "freedom" would do well to begin with these two collections.

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Review

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*Professor of Apocalypse:  
The Many Lives of Jacob  
Taubes*

by Jerry Z. Muller

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Henning Ritter, the literary journalist and son of the founding editor of the *Historical Dictionary of Philosophy*, opens the “Jacob Taubes” section of his 2012 memoir, *Honoured Thinkers: Portraits from Encounters*, with an anecdote pertaining to an American who has come to interview him:

The American Professor, who not so long ago travelled around and interviewed all the attainable people, who had anything to do with Jacob Taubes, is a proven expert on German intellectual history. He has written a book on Hans Freyer, in order to win clarity for himself on the susceptibility of younger German academics for National Socialism. His interest in German University relations appears to be authentic. The round-headed glass-wearer conducts the interview like a protocolist, who wants to have everything in little baskets. He seems to register my answers in pre-prepared lists, in order to compare them with the answers already assembled. Manifestly he has already heard the one thing or the other from another party and thus makes with many communications only a tick. For Jacob Taubes, the Professor himself is interested above all because others have been and are interested in him (Ritter 2012, pp. 27-65, at p. 27).<sup>1</sup>

The American Professor in question is Jerry Z. Muller and the result of the interviews with Ritter and others coupled with extensive archival research in myriad lands is assembled and vividly presented in Muller’s *Professor of Apocalypse: The Many Lives of Jacob Taubes*, which appeared with Princeton and then with Suhrkamp within the last year. The book is both finely and compellingly written and offers an impressive synthesis of historical research. The life of Taubes is occasionally compared to the product of the lively pens of writers like Bellow, Roth, and Babel, and yet no fictionalist could make it up. One of the many virtues of Muller’s biography is his stage-setting at each of the waystations of Jacob Taubes’s life: Muller charts Taubes’s early youth in Vienna in the 1920s and 1930s through histories of the *Wissenschaft des Judentums* and of rabbinic education in interwar central Europe, Taubes’s later youth in Zurich in the 1930s and 1940s (where Taubes’s father was called as rabbi from Vienna in advance of the *Anschluss*) through the history of international aide campaigns in Switzerland to save broadly European and specifically Hungarian Jewry. Muller sets the story of Taubes’s life in New York City in the late 1940s amidst institutional his-

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Jerry Z. Muller, *Professor of Apocalypse: The Many Lives of Jacob Taubes*. Princeton: Princeton University Press, 2022.

tories of the Jewish Theological Seminary, Columbia University, and *Commentary* magazine, whilst placing Taubes in Jerusalem in 1949 amidst the backdrop of the history of a newly independent Israel. Muller combines copious oral history, archival research, historical synthesis, literary history, the history of sociology as a discipline, and the history of Universities and journals into a finely wrought tapestry that itself offers a kind of prosopography of middle and late twentieth century German and Jewish intellectual history. There are few in Muller's generation in North America who could match the scholarship of this book and still fewer in the generations which succeed Muller. All of this makes Muller's biography of Taubes, in a certain sense, a thing to read with pleasure, to cherish and to read again.

Another historian might have overlooked the papers of Arthur A. Cohen as a source for Jacob Taubes, and Muller has found there a treasure trove. Another historian might not have unearthed the letters and radio addresses (some still unpublished) in which Taubes makes rare and positive defenses of the Jewish state, and Muller has here upturned received wisdom on Taubes. Another historian would not have situated Taubes above all against Phillip Rieff and the traditions of sociology in Europe and America. In these regards and others, Jerry Z. Muller is not just another historian.

Muller's text exhibits a certain playfulness with some of the names of the figures in his narrative. The sociologist (and socialist) Frigga Haug, is sometimes referred to by Muller as "Frieda Haug" (p. 578, n21) and sometimes by her real name (p. 578, n15), with Haug's forename changed to "Frieda" perhaps to highlight her pacifist opposition to atomic weaponry.

By contrast, in Muller's text, the moniker of the Satmar rabbi shifts from being "Reb Yoilish" (p. 43) to "Reb Yoilisch" (p. 44) to "Reb Joilisch" (p. 105), with Muller calling the anti-Zionist rabbi, in effect, "Reb Joyless".

Susan Neiman, director of the Einstein Forum and author and editor of more than fifteen books, including the *Nachlass* of Margherita von Brentano, is referred to by Muller sometimes by her real name (p. 588, n99) and sometimes as Susan "Neuman" (p. 589, n127).

Christoph Schulte, whom Muller is capable of identifying properly (pp. 600, n199; 600, n206), at times becomes "Christian Schulte" (p. 444) in Muller's narrative, perhaps with the implicature that, in Muller's view, this scholar of Jewish Studies is "Christian schooled" (Ibid).

Taubes's psychiatrist, Silvano Arieti (pp. 245, 302, 394) becomes "Salvador Arieti" (p. 302) in the central mention in Muller's biography, with the implication that the savior Taubes was in need of was really a psychiatrist.

Writing in the *Jewish Review of Books* in 2017, describing a letter from Taubes to the novelist and publisher Arthur A. Cohen, Muller would claim of Taubes's text that "There is much naming of names, but there is also a subtle hermeneutic intelligence at work." The reader of *Professor of Apocalypse* comes away from the biography with a clearer sense of Taubes as a namer of names than Taubes the subtle hermeneutic intelligence at work. Indeed, the phrase "hermeneutic intelligence" present in Muller's 2017 article is absent from the later biography.

Indeed, Muller is inclined to perform a kind of *diminuendo* on the ambit, extent, and originality of Taubes's work, not least on Taubes's output as a writer and scholar.

Muller claims that upon Taubes's death in 1987, Taubes had "not published a book since his doctoral dissertation in 1947, a work long out of print and barely read" (p. 2). On Muller's telling, Taubes's "propensities to open-ended speculation, to interest himself in everything but the scholarly subject at hand, and the lack of scholarly productivity that flowed from it, would remain the bane of his life" (p. 109). *Abendländische Eschatologie*, Taubes's "doctoral dissertation on occidental eschatology, his first—and only—published book," (p. 70), which, Muller is keen to repeat, "was the first and last of his books published during his lifetime" (p. 73). Given that Taubes edited both editions of Overbeck and a multi-volume work on political theology, as well as several volumes of the *Poetics and Hermeneutics* series, perhaps it might have been more accurate to claim *Occidental Eschatology* as Taubes's only published *monograph* to appear within his lifetime.

As the author is so keen to repeat that *Occidental Eschatology* was Taubes's only published book, the reader feels inclined to the question of what, for Muller, counts as a book?

The author of *Professor of Apocalypse* assures his reader that prior to writing on Taubes “I wrote some books, including an anthology of conservative thought in Europe and the United States” (p. 525, emphasis added). Muller’s own book *Conservatism*, like Taubes’s edition of Overbeck (p. 54: “Taubes would later edit a volume of Overbeck’s writings”), is very much an edited book, and Muller counts it under the general heading of “Books”, just “Books”, on his curriculum vitae.<sup>2</sup>

On this matter, the *Nachlass* of the Nazi jurist Carl Schmitt housed in Duisburg, in Westphalia North of the Rhein, is a more accurate source on Taubes’s productivity than Muller’s biography: Schmitt’s *Nachlass* lists two Taubes books in Schmitt’s possession upon the Nazi’s death: Taubes’s aforementioned dissertation and the first volume of the *Political Theology* trilogy, *The Prince of this World, Carl Schmitt and the Consequences*. On the matter of Taubes’s productivity, the record of Carl Schmitt’s library is more accurate than Muller’s biography.

When Muller himself edits a book, like an anthology on conservatism, this, the author of *Professor of Apocalypse* assures the reader, is most definitely a book (p. 525).

When Jacob Taubes edits the work of Overbeck or assembles a thousand-page compendium on political theology, a book, according to Muller, it somehow is not.

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Muller is usually very sharp on matters of historical record: he’s sharp on the archives, he’s sharp on the correspondences, he knows the chronologies and the cartographies: Muller is an historian who works with both eyes of Clio, the muse of history, wide open. So, when Muller claims, falsely, (by a standard of what a book is that contradicts Muller’s own vita), that Taubes only published one book, one has to ask: why is Muller making the mistake? Where is Muller getting this information, if not from the historical record of published facts? If Muller is not deriving Taubes’s productivity from the publication of Taubes’s books (of which there are at least four, not one, published in Taubes’s lifetime), where is Muller deriving the information? Is Muller simply making this up? Or is Muller taking his bearings from elsewhere?

Helpfully for the sceptical reader, Muller names his source on page 498 of his biography in discussing the obituaries for Taubes: “A more substantial portrait,” Muller writes, “came a few months later from Taubes’s old friend, Armin Mohler...the article began by noting that although he had published little since his doctoral dissertation of 1947, ‘Taubes was a presence in West German intellectual life’”.

Armin Mohler, it must be noted, served a prison sentence in Switzerland for trying to join the Waffen-SS and continued to praise Hitler’s leadership *in print*, well into the 1990s.

In drawing his portrait of Taubes’s productivity from Mohler’s obituary, Jerry Muller has taken his bearings from the fascists rather than from the facts.

The same issue recurs throughout Muller’s book where Muller reports claims of Taubes’s brilliance as indirect discourse or reported speech (pp. 25, 85, 118, 122, 129, 152), but registers claims that Taubes was dirty or messy (claims generated from Muller’s oral interviews) as if they were fact (pp. 126, 380, 397, 424).

These claims lead Muller to substantiate the obituary claims of Hans-Dieter Sander, a theorist of neo-Nazism, in Sander’s obituary for Taubes: “Sander characterized Taubes as the ‘Phenotype of Diasporic thought seeking to hasten the apocalypse’...Sander thus portrayed Taubes as the paradigm of the uprooted Jew,” Muller writes, “adding character traits that in the case of Taubes had more than a little truth” (pp. 500-501). Here, too, Muller, in effect endorses the claims of a neo-Nazi obituary about a leading Jewish intellectual.

In his Taubes biography, Muller goes out of his way to play down the Nazism of Ernst Jünger, writing that “Jünger found National Socialism too plebeian for his tastes and distanced himself from the movement even before it attained power”, which is not true of the historical Jünger—who sent autographed copies of his books to Hitler, was decorated for military service in the Nazi army, and served as cultural attaché to the Nazi embassy in occupied Paris and contributed his writing to party organs well into the 1940s.



In the Taubes biography, Muller refers to Arnold Gehlen and Carl Schmitt, both Nazis, as “conservative intellectuals” (p. 288), while Muller refers to Hans-Joachim Schoeps, who lent Jewish support to Hitler in 1933 before having to flee Germany on account of his heritage, simply as an “historian of religion” (p. 190).

The problem of Muller’s presentation of Taubes as a writer who didn’t publish much and Muller’s own problem of calling Nazis and fascists by their names are, fortunately or unfortunately, interrelated problems. While Muller finds difficulty in calling Gehlen, Jünger, Schmitt, Schoeps, Sander, Mohler, and Heidegger Nazis and fascists, he does not find difficulty in adopting their descriptions of Taubes as the backbone and scaffolding of his biography.

And in his biography, Muller has allowed the Nazi obituaries of the Jewish intellectual to set the tone, and when these obituaries deviated from the historical record, Muller has followed the fascists rather than the facts. This matters because the biography gives little space to Taubes’s expansive *Religionstheorie und Politische Theologie* (1983-1987), and, writing in accord with Mohler’s dictum that Taubes was unproductive, Muller has almost to pretend that this work doesn’t exist.

All of this might lead us to reconsider not only Taubes’s life, but Taubes’s intellectual endeavors as richer, more complex, more prolific and less staid and settled than Muller’s biography presents them as being. This biography thus serves as invitation to read and re-read Jacob Taubes as the sharp and perceptive hermeneutic intelligence which his books so amply display.

## NOTES

- 1 The author of *Professor of Apocalypse*, portrayed in Ritter’s vignette, calls this “An altogether valuable portrait.” (p. 578, n22).
- 2 See “Jerry Z. Muller, October 2022” accessed at <https://history.catholic.edu/faculty-and-research/faculty-profiles/muller-jerry/cv-muller-2022.pdf> (accessed on 16 February, 2023).

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## In Memoriam

## Troy Camplin and Gloria Zúñiga y Postigo



TROY CAMPLIN  
1971 – 2023



GLORIA ZÚÑIGA Y POSTIGO  
1968 – 2021

It is with profound sadness that C+T have learnt of the passing of Troy Camplin and Gloria Zúñiga y Postigo, two of the most active supporters of C+T. News of Gloria's passing only belatedly coming to C+T's attention.

The late Dave Hardwick and I first met Troy and Gloria at an Atlas conference in Portsmouth NH: so impressed were we with their highly distinctive quality of mind (and equally their conviviality), we kept them in mind for future projects as reflected in the publications below.

It wouldn't at all be hyperbolic to say that Troy was a renaissance man—from recombinant genetics to English, art, poetry, literature, philosophy, and music. This is reflected in some of his publications for C+T and elsewhere. His reviews in C+T were artful. For more on Troy see this obituary: <https://www.dignitymemorial.com/obituaries/dallas-tx/troy-camplin-11365874#remembering>

Gloria was a hard-nosed philosopher whom I discovered had an appreciation for Barry Smith; Barry's work being the first to introduce me to Hayek's philosophical psychology—this a decade before I was invited into Austrian circles. As a member of C+T's editorial board, Gloria co-led the *festschrift* for Barry. Gloria's work on intentionality—informed by Brentano, Meinong, Ehrenfels, Husserl, Sten, Reinach, and Ingarden—met the other major stream to her thought; that is, choice and economic value informed by Menger and Hayek. Gloria was latterly also interested in commutative and distribute justice in Catholic social thought. For more on Gloria see this obituary: <https://www.dignitymemorial.com/obituaries/grapevine-tx/gloria-zuniga-y-postigo-10187365>

**Leslie Marsh**  
Managing Editor

## SELECT PUBLICATIONS

- Camplin, Troy. 2011. Getting to the Hayekian Network. In: *Hayek in Mind: Hayek's Philosophical Psychology* (Advances in Austrian Economics, Vol. 15). Leslie Marsh (ed.), pp. 259-283. Bingley: Emerald.
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# Editorial Information

## AIMS AND SCOPE

COSMOS + TAXIS takes its name and inspiration from the Greek terms that F. A. Hayek invoked to connote the distinction between *spontaneous orders* and *consciously planned orders*.

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1. Submissions should be in English: American, Canadian and UK spellings and punctuation are acceptable so long as they consistently adhere to the one convention.
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The most common permutations are as follows:

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In: *Title*. City: Publisher, pp. 1-10.

Author, J. E. and Author, B. (Eds.) *Title*. City: Publisher, pp. 1-10.

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