Citizenship and Identity:

An analysis of Charles Taylor's 'ontological liberalism' and Jürgen Habermas's 'discursive democracy' as responses to the challenges of modernity and pluralism for constitutional democracies.

A thesis submitted for the degree of Doctor of Philosophy

Rachel Lawlor

Department of Politics

University of Stirling

May 2006

Abstract

This thesis argues that pluralism and diversity pose a more fundamental challenge to liberal constitutionalism than is sometimes recognised by liberal political theorists. While the challenges presented by moral pluralism at the philosophical level, and by cultural diversity at the socio-cultural level, have received a great deal of attention in recent political thought, the background within which these themes become salient has not always been fully acknowledged. What is new in the modern world is not so much diversity of lifestyles, but the disintegration of frameworks that traditionally provided an unproblematic basis for political authority. What this modern challenge forces us to confront then, is the idea that 'the people' who are subject to law, are also, as citizens, the ultimate source of political authority.

I consider in detail the work of two contemporary political theorists who have provided among the most sustained and far-reaching attempts to respond to this challenge, Charles Taylor and Jürgen Habermas. Both make a significant contribution to responding to the contemporary situation of pluralism by taking on board the 'dialogical' nature of identity, and the role of the 'people' as the ultimate source of political power. However each places a heavy reliance on a privileged standpoint that may shield political judgement from the full implications of modern pluralism: Habermas, by appealing to 'post-conventional morality' and Taylor, by appealing to an incipient teleology.

Contents

Acknowledgements

Thanks must go to Dr. Andrea Baumeister for supervising this thesis. Other debts accrued during my time at the University of Stirling are to members of the political philosophy reading group among whom I must give special mention to Dr. Rowan Cruft for his encouragement, especially during the later stages of writing. I am grateful also to Prof. Noel O'Sullivan at the University of Hull for many helpful discussions, and for his unerring support. In addition I would like to thank Owen Earnshaw for careful proofreading, and Anne Lawlor for helping me prepare the final manuscript. Of course, none of the inadequacies that remain in the finished work are in any way the responsibility of those mentioned above. Finally, I am pleased to acknowledge the Arts and Humanities Research Council for the award of a full studentship which enabled me to pursue this research. I am grateful too, to the British Federation of Women Graduates, for a further grant that allowed me crucial additional time to complete the thesis.

Note on Abbreviations

BFN
Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

PR
Taylor, C. '*Multiculturalism and 'the Politics of Recognition' Multiculturalism: Examining 'the Politics of Recognition',* Amy Gutmann (ed.) (Princeton: Princeton University Press, 1994)

SS
Taylor, C. *Sources of the Self: The Making of Modern Identity* (Cambridge: Cambridge University Press, 1989)

For my parents

Introduction

All viable relationships depend upon the existence of boundaries. One of the notable features of contemporary Western culture is the extent to which we have become explicit and defensive about such boundaries in the sphere of personal and intimate relationships. We admonish those who fail to respect our 'personal space' and we describe relationships in which we feel thwarted in our deep-rooted need for individual self-expression, as claustrophobic or suffocating. Where confidence in those bonds that we usually regard as being constitutive of personal relationships such as love, affection, care, loyalty and mutual respect is so fragile that there is a permanent longing to submerge boundaries entirely and subsume or possess the other, we would no doubt identify some form of pathology at work.[1]

Equally unsatisfactory, though in a different way, would be a situation in which boundaries are non-existent or are so porous as to make nebulous the relationship they are supposed to describe. Should my significant other fail to identify me likewise, i.e. as a privileged focus for his love, care and loyalty, and in those respects at least, significant *vis-à-vis* other members of the human race, the charge levelled would be not one of trespassing personal space or submerging boundaries, but of failing to acknowledge the boundaries needed to construct intimate space. A person unable to detach himself from this state of egocentric independence sufficiently to establish any personal relationships on the basis of such bonds would also appear to us as pathological.[2] Relationships would be possible at all for such a person only where they served some sort of independent interest, but in this case they would be wholly dependent on extrinsic considerations and utility calculations. To this extent they would almost certainly be judged shallow and trivial by the standards that we have come to understand as definitive of personal relationships, since they would fail to instantiate the bonds deemed to be constitutive of them.

Like personal relationships, viable *political* relationships are similarly dependent upon the existence and maintenance of boundaries. And, as in personal relationships, these boundaries should be such that they respect (even promote) individuality *and* isolate those united by such bonds as privileged in some sense *vis-à-vis* others (to whom they nevertheless may have moral obligations in virtue of sharing in a common humanity). Though there may be

functional similarities between personal and political relationships, the boundaries appropriate for politics and the forms of relationship that these make possible differ significantly from those in the personal sphere.

Democratic constitutional politics depends upon the establishment of boundaries of two kinds. Firstly, a boundary must be drawn between public and private by circumscribing the range of operative public authority so as to guarantee individual rights from contingent exercises of political power. Secondly, a boundary must be drawn around the specific 'people' who, as a public, are the ultimate source of political power. The form of relationship that these boundaries make possible is impersonal. Political relationships encompass large groups, specifically a bounded legal community within a given territory, and so cannot be based upon strong emotional ties between individuals who are known to one another. While personal relationships must have a shared dimension if they are to be meaningful as opposed to merely functional or superficial[3], political relationships have, in addition, a public dimension. That is, the bonds by which diverse individuals are linked in circumstances of social diversity necessarily take on an impersonal form[4]. The political sphere cannot be an arena for highly personalised forms of self-realisation or deep affective ties. Political action must be *depersonalized* to the extent that it cannot be held hostage by the inner determination of the assertive will or the impassioned heart if it is to offer genuine possibilities for peaceful co-existence. Conceptualising this public dimension of politics will be crucial if political power is to derive not from a mere aggregation of individual wills, but from the sharing of reasons.

Despite widespread agreement that political boundaries should be constructed so as to respect and promote individuality *and* isolate those united by such bonds as privileged in some sense *vis-à-vis* others outside the boundaries of the state, dissonance creeps in once we unpack what this means in both theoretical and practical terms. For example, does the requirement of respecting individuality entail simply allowing individuals to pursue their own conceptions of the good unimpeded by external interference, or does it entail the more positive sense of enabling individuals to realise their most significant goods and purposes?

How we respond to this dilemma will determine whether we conceive of the state as having a more or less interventionist role. The state, meanwhile, being the site of "a specific

monopolisation and unification of powers"[5], must somehow identify 'the people' within its territory as subjects and as citizens. In the former guise they are bound by law and subject to the coercive power of the state, but this is deemed legitimate, and law is understood to be morally binding because 'the people' are also, in their role as citizens, the originators of political power. In this latter role 'the people' must be united by some shared understanding of what the polity is all about. Those who do not share these common understandings lack an important reason to feel bound by its decisions.[6] This raises questions about the conditions that must prevail in order for a meaningful sense of political membership to develop. On this issue, the most enduring and pronounced schism has been that dividing the liberal and republican views of political membership.

Between status and identity: liberal and republican conceptions of political membership.

Liberals have tended to view citizenship as a status, focusing on legally binding rights and obligations, while republicans have conceived of citizenship as an identity, emphasising affective ties and a shared orientation to values. Liberalism and republicanism have proved to be useful interlocutors precisely because they have offered divergent responses to important questions about the role of the state in respecting individuality and defining the terms of political membership. At the extreme limit, republican inspired understandings of political relationships are sometimes charged with encountering the political relationship in somewhat similar terms to the possessive lover considered above, that is, with subsuming those boundaries needed to preserve individuality. Not confident that the relevant formal bonds of a political union such as the rule of law, representative government and political rights can provide for the kind of solidarity required to hold the political community together as a unit, republican accounts submerge the constitutional boundaries that separate public from private by conceiving the polity as a perfectly unified and totalising political identity. This kind of all-embracing political identity is likely to compromise the freedom of those individuals it aims to more perfectly unite. This kind of criticism seems to be apposite of Rousseau's political thought. Consider his description of an ideal republican festival, which appears in his *Letter to M. d'Alembert.*

> "Plant a stake crowned with flowers in the middle of a square; gather the people together there, and you will have a festival. Do better yet; let the people become an entertainment themselves; make them actors themselves; do so that each sees and loves himself in the others so that all will be better united."[7]

As Rousseau describes it, not only are the boundaries between participants and spectators removed, but the boundaries between individual participants are also, seemingly, dissolved. The political implications of this view become most clear in Rousseau's theory of the 'general will' in which political unanimity is made possible by each individual putting "his goods, his person and all his power in common" under its supreme direction.[8] This idea that the people as a whole can be transformed into a collective personality with a single will is, in Canovan's words, Rousseau's "most celebrated device for turning a multitude into one".[9] This conception of 'the people' as a unified macrosubject in which individuality is submerged and human plurality entirely subsumed is not only a fictive ideal, according to Arendt, but also leads inexorably to perverted forms of politics when pursued as a political goal.[10] This becomes evident, she thinks, not only in the excesses of the French Revolution, but also in the totalitarian movements that threw Europe into chaos at the beginning of the Twentieth Century.[11] These events, though separated historically, have a single feature in common, namely, the emergence of national statesmen who in claiming to best represent the aspirations of the whole people, looked to a source of legitimacy over and above the law.[12] The obliteration of boundaries is key to the proper functioning of totalitarian government. Totalitarian government "substitutes for the boundaries and channels of communication between individual men a band of iron which holds them so tightly together that it is as though their plurality had dispersed into One Man of gigantic dimensions."[13] Arendt argues that constitutionalism is necessary to preserve laws, which function "as "fences" establishing boundaries between men and protecting "essential freedoms".[14]

In contrast with republican accounts, which at the extreme limit appear to gesture in the direction of submerging boundaries by appealing to a collective personality, liberal models of political relationships are sometimes charged with providing too shallow a view of political membership by interpreting boundaries in exclusively legal terms. Private rights are privileged over public goods and little importance is attached to the development of affective ties with

compatriots. Instead, juridical strategies for limiting state power are understood as being central to the preservation of freedom. On the classical liberal view, negative rights afford individuals protection from government provided they pursue their private interests within the boundaries drawn by legal statutes.[15] In comparison with republicanism, liberalism is thus prone to the other relationship pathology identified in the opening section, that of raising egocentric independence to the height of a lofty ideal that cannot be compromised. Political relationships must therefore be justified in instrumental terms as serving individual interests.

This highly generalized account cannot comprehensively characterise a tradition as internally diverse as liberalism. Nevertheless, the spirit of that tradition bears out the manner of its inception in early social contract models. Social contract theory construes the foundation of political society in terms of individuals joining together to establish the rules of their mutual cooperation in a way that guarantees for each individual as wide a scope as possible for personal liberty and independent action. On this approach egocentric independence is presented not as a barrier to establishing relationships, but as a methodological starting point for explaining political obligations. From the point of view of this rather partial and austere conception of human motivation, political society is comprehensible as the product of communal utility or collective rationality, and political obligation becomes an act of rational self-binding.[16] Persons unite to form political society not for the purpose of pursuing common goods, but in order to avoid the inconveniences of a society without government in which there is no security, and no common umpire to adjudicate conflicts.[17] Duties to others within the political community do not arise from affective bonds or shared understandings, but from reciprocal agreements based on principles of mutual forbearance.

The difficulties engendered by this approach do not arise from total government, but from the absence of the common understandings and civic virtue required for conceiving of shared projects and carrying them out. It is from this perspective that the liberal emphasis on negative freedom and rights is criticised by theorists in the radical tradition such as Rousseau, Hegel and Marx for valorising competing private interests over the promotion of a public or common good.[18] What these classical radical theorists fear, is that the politics of individual interest may be inherently unstable and divisive, leading to strife among particular interests and

political fragmentation, or the domination of some interests over others.

As this brief and somewhat stylised discussion indicates, attempts to give a plausible account of boundaries, and the political relationships that they sustain, have been as controversial as these dilemmas have been longstanding. Individuals must be able to identify themselves as members of a shared political community where this membership is compatible with, and privileged in relation to, their membership of other partial associations and groups in which they develop their distinct identities. Individuals within a political state must be able to identify themselves as citizens where citizenship, according to Wolin, provides "an integrative experience which brings together the multiple role-activities of the contemporary person and demands that the separate roles be surveyed from the more general point of view."[19]

However, the universal aspirations of citizenship, expressed in this idea of the 'general point of view' will sometimes be in tension with the particularistic claims of identity. These tensions become particularly acute in contemporary circumstances of pluralism in which individuals and groups seek public recognition for their unique and distinctive identities. Where normative significance is attached to identities shared with others beyond the boundaries of the state, such as ethnic, cultural and linguistic identities, questions arise as to how the state can promote attachment and allegiance to a common citizen identity. In attempting to redefine the terms of political membership in modern diverse societies contemporary theorists often become mired in the same longstanding disputes between liberalism and republicanism. These disputes are centrally concerned with the issue of whether citizenship should be understood minimally as a *status* with associated legally enforceable rights and responsibilities or more substantively as an *identity* that exacts allegiance.

New debates about citizenship: legitimacy and social integration

It is against this background that there has come to be a renewed focus on the theme of citizenship as an area for academic study and as a tangible political aim.[20] In recent times 'citizenship' has come to be held up as something of a political goal, and in the British case it appears ostensibly at least, to be the *identity* model that is gaining ground over the *status* approach. In December 2004 the British Home Office published a handbook on citizenship as a

precursor to the "citizenship test" introduced the following November as a condition of being granted a British passport.[21] This followed the introduction of citizenship ceremonies early in 2004. As well as having a practical role in ensuring that naturalised citizens have sufficient insight and information about British society to enable them to participate effectively within it, these ceremonies are clearly intended to construct a meaningful shared identity, one that can provide a basis for political allegiance.[22] The impression conveyed by this and other initiatives recently enacted by the incumbent British government, such as the 'respect' agenda aimed at combating low level anti-social behaviour, is that citizenship is an identity that must, not only be consciously appropriated and actively embraced, but also vigilantly safeguarded against disintegration and fragmentation. Certainly, the supposition is that citizenship amounts to something more than the conferral of a formal legal status. The implicit claim is that citizenship should not be wholly expressed in the juridical and legal norms that define the rights and obligations of the members of a polity, but must also be understood as an identity with which individuals can feel allegiance. This duality is the focus for what Habermas has termed the 'double coding of citizenship'.[23] This double coding, he thinks, was first provided within the modern nation state by the integrative force of nationalism, which provided a cultural basis for the constitutional state. This cultural interpretation of political membership provided the abstract form of social integration needed to enact and sustain the legal basis of democratic citizenship in equal civil and political rights.[24] This double-coding of citizenship identified by Habermas is an attempt to provide for the two distinctive demands of social integration and legitimation that must be met within constitutional states.

The legitimacy of a regime is a function of its ability to provide plausible public justifications of coercively imposed political and social institutions to the people who have to live under them.[25] Liberal conceptions of legitimacy are linked to the development of "normative arguments" that defend "the justice and fairness of a particular set of institutions, relations and arrangements." [26] Legitimacy has been a central theme within liberal political thought precisely because we wish to live, to the extent possible in any socially diverse and complex society, as free agents in a political order that *deserves* our allegiance.[27] However, while we can raise and respond to questions about whether or not allegiance is deserved, the

allegiance itself is an important element of citizenship in its own right. The bonds that link citizens with their compatriots within a particular political community must be sufficiently strong and durable that those who strongly disagree with specific outputs of democratic decision-making processes, perhaps on issues that are dear to them, nevertheless remain committed to the basic constitutional form and to resolving disputes through political deliberation and negotiation rather than resorting to violence and intimidation to secure their ends and purposes.

However problematic constructing these bonds may be in modern circumstances of pluralism, it is clear that the enterprise cannot be displaced or reconfigured as an entirely legal or juridical project. We can conceive of decisions reached on behalf of the public by the major institutions of society as worthy of being obeyed only insofar as these are responsive to our deepest grievances and criticisms. Where there is deep disagreement about values, the idea that all voices must gain a fair hearing in order for democratic processes to be considered legitimate takes on an even greater importance. As Simone Chambers notes, it is crucial to the fairness and legitimacy of the process of constitutional deliberation that "citizens feel that they were heard, that they were part of the process, and that their opinions, interests, concerns, and claims counted for something."[28] In diverse societies democratic processes are even more heavily reliant upon high levels of trust than is the case in culturally homogenous societies. As Chambers notes, the inclusiveness of democratic decision procedures may be more important than their outcome in fostering social cohesion and trust.

Inevitably though, the decisions that result from democratic deliberations will not always distribute the burdens of compliance equally. The polity must have an official language through which institutional proceedings are conducted, it is likely to have official public holidays, norms of marriage and an agreed educational curriculum, all of which are likely to be culturally inscribed and may seem to put at some form of disadvantage those with divergent cultural identities and commitments. Also, political decisions must be made on ethically divisive issues such as on abortion and euthanasia and capital punishment. In liberal states committed to securing peaceful co-existence between those with diverse interests and views, the tendency has been towards more "liberal" regulation in these areas so that they become matters of

personal choice. However, while liberalisation may provide the best means of securing peaceful co-existence and protecting the equal interests of all, there is no doubt that it "entails an unequal distribution of "hardships" for the ethical self-understanding of one or another group."[29] A person for whom practices sanctioned by the constitutional state seem to be abhorrent may find it harder to identify herself as a member than someone for whom the goals and commitments pursued by the state have a deep personal resonance. Trust is thus required as the 'social cement', which makes abstract political relationships embodying criteria of justice workable.[30]

The main challenge that a viable model of constitutionalism must meet in contemporary circumstances of pluralism is to offer a convincing account of the relationship between political legitimacy, which forms that rationale for liberalism's commitment to justice and fairness, and social integration, which prompts the republican emphasis upon the conditions needed to sustain allegiance to these commitments. In my estimation, Charles Taylor and Jürgen Habermas have offered two of the most sustained and far-reaching attempts to respond to this challenge. Hence the ontological liberalism of Charles Taylor, and Jürgen Habermas's model of discursive democracy provide the main focus of the thesis. Both have made considerable advances in developing a coherent account of citizenship that marks both a departure from, and a genuine alternative to, on the one hand, liberal juridical approaches and on the other, republican accounts that appeal to the idea of a unified political community and an already integrated citizenry.

New discourses on citizenship and identity: Charles Taylor and Jürgen Habermas.

Both Taylor and Habermas are aware that issues about cultural accommodation often discussed within political theory under the rubric of 'multiculturalism' have not become pressing only in consequence of the demographical and sociological shifts that have made Western societies increasingly heterogeneous in terms of lifestyle and culture, but also because of the more wholesale crisis of values ushered in by modernity. Hence for each, their proposals on cultural accommodation take shape within a comprehensive philosophical system. Both recognise that discourses of legitimation and modes of social integration have become deeply

problematic in circumstances of modernity wherein traditional bases of authority such as tradition, custom and hierarchy can no longer stabilize identities and horizons of value. Each, I think, would basically concur with John Gray's assessment that "what is new in the modern world is not acceptance of diversity in styles of life. It is hostility to hierarchies."[31] For both, modernity entails radical questioning of those metaphysical and moral frameworks that have traditionally offered meaning and purpose for individuals, and order and unity for social and political life. This leads them to develop distinctive account of citizenship and rights from within the context of a much broader theory of modernity. This is one of the key features of each of their approaches that set them apart from contemporaneous liberal responses to questions of pluralism and diversity. While both Taylor and Habermas have given extensive treatment to questions of cultural diversity and the role of the state in protecting minority identities, they each regard the salience of identity politics in the contemporary world as being closely related to more fundamental currents of modernity. Before going on to consider their work in detail, I will consider the relative inattention of liberal accounts of citizenship to those themes that I suggest must be central for any attempt to reconceptualise constitutionalism and citizenship in the context of modern pluralistic societies.

Chapter One. *Citizenship and Pluralism*

Introduction

On September 21st 2004 the National Museum of the American Indian (NMAI) opened in Washington DC. Despite its situation alongside the other bright white marble museums in the National Mall, it is 'no ordinary museum'.[1] The museum supports the idea that Native Americans should be allowed to tell their own story, which in effect allows them complete authority about what is displayed, and with what interpretation.[2] Some areas of the museum are set apart for tribal use, and access is restricted to artefacts deemed to have 'ceremonial status'. The aims and practices of the museum have attracted scrutiny and critical comment from both the British and the American Press.[3] Tiffany Jenkins, writing in the British broadsheet, *The Independent* has suggested that, 'the museum sets a worrying precedent'. By restricting access and research opportunities on the grounds of birth and background, the museum promotes "dubious ideas" about "the relationship between identity and knowledge."[4] Jenkins argues that, in not being equally accessible to everyone, the museum openly

contravenes the leading principle that ought to inspire publicly funded institutions to acquire and hold collections in trust for everyone.

Included in the mission statement of the NMAI is a "special responsibility" to protect and enhance the development, maintenance and perpetuation of native culture and community."[5] The opening of the NMAI in Washington provides just one indication of the extent to which discussions about the role and responsibilities of the state in the protection and promotion of distinctive cultural identities is a response to developments already underway. These developments are not unique to those countries struggling to integrate indigenous populations after a long history of oppression and neglect. Most Western European states now face similar multicultural dilemmas in providing fair terms of accommodation for national, ethnic and religious groups.[6]

Measures aimed at securing political accommodation for cultural groups range from far-reaching legal and institutional protections to more diffuse forms of cultural support, such as affirming the presence of previously marginalised voices through public funding initiatives or changes to educational curricula. Many countries have for some time accepted various forms of group-differentiated treatment on the basis of culture, nationality or language, and in many cases this differential treatment has been embodied in legal codes and statutes or constitutional law.[7] Equally, international society and its political institutions, as well as individual states, have begun to take seriously demands for cultural recognition and protection.[8] One example of this is the inclusion of far-reaching measures for cultural protection included in the *UN Draft Declaration on Rights of Indigenous Peoples*.[9]

Questions about how far these various measures can be justified, has become a major focus for contemporary political thought. These developments have provoked a robust defence of the liberal egalitarian model of citizenship, most comprehensively developed in recent times by John Rawls, by liberals suspicious of new demands for cultural protections and recognition of difference.[10] Others, perhaps most notably Will Kymlicka, have been more sympathetic to the changes already underway, and have sought to confer upon them a normative status on the basis that states have a duty to protect the cultural attachments of their citizens as a matter of justice.[11] On this view, cultural rights may come to be regarded as the logical extension of

citizenship rights, that is, as the most recent set of rights that enable citizens to become fully participating members of the political community.[12] I examine the theories of citizenship advanced by Rawls and Kymlicka in the final section of this chapter. These accounts are clearly not exhaustive of the various contemporary responses to questions of citizenship and cultural rights.[13] However, they are indicative of a tendency within recent political thought to understand citizenship in juridical terms. To illustrate what I mean by this, we must first get clearer about what citizenship means within the context of modern constitutional democracies. Citizenship is not an open-ended identity. It must also be conceptualised as a status inscribed within a specific set of political, legal and cultural relationships.

Like most ideas in political theory the meaning of citizenship is contested, yet it appears incontrovertible that it describes the relations of individuals to the state and to each other within a territorially bounded political community.[14] Citizenship thereby *implicates* us in the public political culture of a particular political community.[15] The cultural dimension of citizenship is not independent of the status of citizenship, which exists as set of juridical and legal norms that define the rights and obligations of the members of the polity.[16] Citizenship is a relationship that is defined within the boundaries constructed by the democratic constitutional state.

In section one, I suggest these boundaries are of two kinds. Firstly, a boundary must be drawn between private and public. This boundary will circumscribe the legitimate range of operative public authority so as to guarantee individual rights from contingent exercises of political power. Secondly, boundaries must be drawn around the people of a specific legal jurisdiction. I will argue that the connections between these two kinds of boundary have been obscured partly as a consequence of the one-sided emphasis of liberal political thought. Modern liberal thought, having focused almost exclusively on the boundary between private and public has tended to construe political relationships in instrumental terms, being concerned primarily with the protection of private rights from the contingent exercises of political power. This obscures the crucial relationship between these two distinct types of boundary-drawing, since it provides only a partial conceptualisation of 'the people' as private individuals and as subjects of law. I suggest that we need to reinstate an alternative mode of thinking about 'the people' as

'the constitutive power', that is, as the originators and founders of political authority in order to develop a more adequate account of citizenship.

In section two, I consider two distinct understandings of the idea of the 'constituent power', one the broadly liberal account offered by John Locke, the other, the republican approach of Jean-Jacques Rousseau. It is the centrality accorded to the idea of the 'constitutive power' that makes these accounts interesting for present purposes, though neither provides a conception of this idea that is suitable for modern pluralistic societies. Locke assumes that the authorising source of the 'body politic' will be already integrated through its rational apprehension of divine law. Rousseau appreciates the secularisation of the political more fully, recognising that higher law does not have its roots in divine law, but in 'the people'. Still, Rousseau's model cannot be the starting point for a viable interpretation of the 'constitutive power' in modern pluralistic societies, since 'the people' are understood as having a unified political will. Finding both of these approaches problematic, I consider Arendt's conception of the 'constitutive power' as being instructive for informing a model of constitutionalism and citizenship in modern diverse societies.

In section three, I consider John Rawls' and Will Kymlicka's approaches to citizenship and identity from the perspective of the foregoing discussions about boundaries. Rawls interprets pluralism as moral, religious and philosophical diversity and from this perspective, develops a framework for rights by appealing to the principle of difference blindness. I suggest that while this may be a feasible model for dealing with religious or moral pluralism, it is less effective for addressing the problem of impaired inclusion, which often fuels cultural claims. Recently, Will Kymlicka has made admirable attempts to address this problem of impaired inclusion, but his theory meets difficulties in its attempt to marry a liberal concern with autonomy with a commitment to cultural integrity. Ultimately, though Rawls and Kymlicka advance very different models of citizenship, both place too heavy an emphasis on protecting individual rights against political power. That is to say, both have been preoccupied with the first form of boundary-drawing, that between private and public and have therefore been forced to look for a privileged standpoint beyond politics as the ultimate basis from which to authorise their respective models of constitutionalism.

1. CONSTITUTIONALISM AND BOUNDARIES

In large, plural, complex societies, democratic politics can only be realised within a framework of constitutionally guaranteed rights and procedures that define the terms of political engagement and the limits of political power. The constitution therefore acts as a device for simultaneously enabling the exercise of political power and limiting its scope. It enables the 'people', understood as the whole body of a territory's legal inhabitants[17], to realise the political good of 'self-determination' through an established framework of rules and procedures. This function depends upon the establishment of a state whose borders are recognised internationally and whose sovereign political authority has priority over any autonomous social or political organisations within these borders. Hence we think of political sovereignty and the practices of citizenship as being confined within the boundaries of national political communities.[18] At the same time, popular sovereignty, or the entitlement of 'the people' to self-determination, must be limited for the sake of individual autonomy. Hence constitutions also guarantee individual rights and liberties by drawing a "clear line of demarcation……between what can be contingent upon the outcome of the political process and the conflicts of interest entering into it, and what cannot be the object of such conflict because it is constitutionally entrenched."[19]

We might say then, that democratic constitutional politics depends upon the establishment of boundaries of two kinds. Firstly, a boundary must be drawn between public and private by circumscribing the range of operative public authority so as to guarantee individual rights from contingent exercises of political power. Secondly, a boundary must be drawn around the specific 'people' of a territorial unit. The 'people' so identified must have some common understandings and links, since they are also, ultimately, the source of political power. Though the latter type of boundary is in an obvious sense the more fundamental one, since it determines the source of that political power which the private/public distinction aims to regulate, it has received less explicit attention in liberal political thought. In section three, I consider the implications of this for liberal theories of citizenship and cultural rights.

1.1 Boundaries between private and public: three contested axes.

Rights are intended to secure a private space for individual liberty. Individuals are free in this space insofar as they are unconstrained in their actions, at least within a certain significant range of activity. Liberal political thinkers have sought to circumscribe the range of public authority so as to protect the "private sphere" or "private rights" primarily along three main axes.[20] The first is in the realm of personal meaning most powerfully exemplified by religious belief. The principle of toleration, which has been of fundamental importance within the liberal tradition, seeks to remove those issues deemed to be matters of private conscience or opinion from the sphere of state control. Toleration was first advanced as a principled response to religious disagreement in the context of the Reformation and ensuing wars of religion in Europe. Locke's account of toleration is, in part, a pragmatic one about the irrationality of attempting to coerce religious belief.[21] It also incorporates significant qualifications. Since the premises of Locke's argument are drawn from an account of society governed and regulated by a divinely sanctioned natural law, the principle of toleration does not extend to atheists who, he thinks, will have no commitments to the bonds of the society, which grants toleration as a privilege[22].

Locke does however, in important ways, prefigure modern doctrines of toleration, which typically link the principle of toleration with the idea of respect for individual autonomy.[23] He maintains, for example, that insofar as no one suffers any prejudice as a result of the conduct associated with religious belief "every man has the supreme authority of judging for himself."[24] For autonomy valuing liberals, toleration is sometimes regarded as the only coherent and humane response to the situation of pluralism in which there is disagreement about ultimate values. In any event, the idea that the state can protect the moral integrity and freedom of each person equally by remaining neutral in relation to those spheres within which individuals pursue 'higher goods' or seek personal meaning, has become extremely powerful in contemporary culture.

The second axis of human and social life that some liberals have sought to remove from state control is that of the economy. Liberals have offered different justifications as to why economic freedoms should be secured from state interference. In the eighteenth century Adam

Smith suggested that economic society was effectively self-regulating. The argument here is that individual commodity owners, by pursuing their own interests, will necessarily though unintentionally promote the wider public good.[25] More recently, libertarian thinkers such as F. A Hayek, have similarly imagined political society as parasitic upon a spontaneous order emerging from the practices of private individuals constructed through their spontaneous exchanges. For Hayek, the economic market is exemplary of this spontaneous order.[26] The role of the constitution is therefore to limit government interference in the private sphere of market relations so as to secure greater personal liberties.[27]

The third axis privileged by liberals as a sphere for non-interference, is the domestic or intimate sphere. Unlike the market economy, which is distinct from the state in abiding by independent regulative principles, the domestic sphere is understood as a sphere of purely human relationships.[28] It is "the domain of the household, of meeting the daily needs of life, of sexuality and reproduction, of care for the young, the sick and the elderly."[29] So while liberals have sought to protect the sphere of the market from state regulation in virtue of its being cherished as a liberty-enhancing sphere of autonomous action, they have sought to segregate the intimate sphere from public life in virtue of its representing the realm of necessity and thus the antithesis of liberty and autonomy.[30]

Democratic politics depends upon the maintenance of some boundaries between private and public in order that the particular associations within which individuals develop their distinctive identities can operate free from excessive political interference. However, along each of the three axes outlined above, there appears to be little consensus about where boundaries between public and private should lie, and how public power should be circumscribed. The long-standing liberal commitment to religious toleration, which aims to protect the religious freedoms of the state's constituent groups while not positively affirming the beliefs of any particular group, may seem a useful tool for securing peaceful co-existence within multi-faith societies, yet it does not, of itself, provide any substantive answers about the precise role and limits of the state in protecting religious freedoms.[31] Recent debacles over whether religious symbols should be permitted in schools have served to underline the fact that the principle of toleration may just as readily by violated by over-zealous secularists as by religious fanatics.

Similarly while both libertarians and egalitarian liberals regard freedom as an axiomatic value, they are sharply divided over whether the public institutions of the state or the autonomous actions of private individuals can best secure this core value. Finally, the contemporary women's movement has focused attention on the boundaries between private and public in highlighting the asymmetrical power relations associated with the sexual division of labour and re-interpreting aspects of domestic life as public issues of justice.[32]

1.2 Defining 'the people' as the ultimate source of political authorisation

The second issue, of how to define 'the people' as the ultimate source of political power, becomes pressing in light of the crucial legitimating role that the ideal of popular sovereignty occupies within modern liberal democracies. This ideal of popular sovereignty, which is central to the liberal democratic tradition, is tied to modernity's express renunciation of traditional forms of authority based upon status and hierarchy.[33] Recent liberal thought has sometimes exhibited mistrust of the idea of popular sovereignty perhaps as a consequence of some of the unfortunate conceptual associations that have become linked with the idea. In Carl Schmitt's hands, the idea of political sovereignty is transformed into an extra-legal and extra-moral assertion of political will. He argues that only "an absolute decision created out of nothingness" can underpin the legal and constitutional structures that are crucial for the legitimate exercise of political power.[34] From another angle, popular sovereignty may sometimes serve as a pretext for a doctrine of nationalist self-assertion.[35] The nationalist appropriation of the idea carries with it the danger that citizenship becomes linked with a narrow ascriptive kind of identity so that membership of the political community, or citizenship, is wholly proximate with some mythic chain of racial or ethnic descent. In either 'decisionistic' or 'ethnic-nationalist' guise, sovereignty appears antithetical to liberalism's emphasis on the rule of law and human rights.

Neither 'decisionist' nor 'ethnic-nationalist' ideas represent authentic interpretations of popular sovereignty since in each case some non-democratic principle comes to occupy the throne of sovereignty, which rightfully belongs to the people. However the idea of popular sovereignty may appear to be hopelessly vulnerable to this kind of misrepresentation since it links extensive powers to confer legitimacy on boundaries, regimes and policies, with a vague

and amorphous conception of the people. This being the case it might easily allow for political power to be usurped by all manner of groups and interests who claim that they are, or speak for, the people.[36] This, on Hannah Arendt's view, is precisely the mechanism that makes possible dictatorial and totalitarian forms of political rule.

For these reasons, liberalism, which has traditionally been interested in limiting political power and protecting the autonomy of the private sphere, has sought to make popular sovereignty seem more hospitable to principles of liberal constitutionalism. When liberals talk about self-rule, often they are talking about a partial and attenuated conception of it, in which popular control is understood not as some extra-legal force, but as a power made available by those norms and procedures established for the exercise of democratic rule. The idea of the people collectively engendering political power, which the idea of popular sovereignty embodies, is thereby reduced to the idea of an already integrated citizen body utilising existing institutional structures, such as representative democracy and majority voting, to express political preferences, or to reach agreement on matters of common concern.

The main difficulty with this approach is that it obscures the fact that the framework for the exercise of political authority may itself be controversial. Constitutional forms of representative democracy and democratic decision procedures such as majority voting, must themselves be legitimated. Hence popular sovereignty can be erroneously equated with this partial conception of democratic self-rule only if two conditions prevail. Firstly, the boundaries of the political community must already be clearly established. Secondly, the terms of political relationships between citizens themselves, and between citizens and the state, must be the object of some consensus. That is to say, there must be sufficient agreement on values and norms within this bounded political community such that the legitimacy of existing institutions and procedures can be assured.

The nation has often served as the assumed basis for this broad agreement within modern political thought. The idea that a homogenous nation state can be assumed as a fixed and relatively unproblematic context within which the meaning of shared political ideals such as justice and democracy can be determined, has been prominent within modern political thought. As will become evident in section three of this chapter, contemporary liberalism has frequently

used the category of the nation-state as a shortcut to the task of defining 'the people' as a cultural unit and as ready-made solution to the problem of boundaries.

In contemporary circumstances the idea of a culturally homogenous nation-state can no longer serve as a background assumption for political thought. Consequently the idea of popular sovereignty, which it provisionally usurped, has once again become a focus of interest.[37] Modern society is unavoidably caught in the torsion created between competing supra-state processes such as globalisation, and sub-state dis-aggregation represented by nationalist movements and identity politics. Processes of globalisation have clearly altered the context in which modern states govern such that the 'political myth' of an "absolute, unitary and indivisible state sovereignty" operating within a given territory is no longer sustainable.[38] The nation-state, once seen as an unproblematic background for the construction of an integrative political identity has been decentred as a unified locus of control over political and economic issues. Rather there is a widespread acceptance that the constraints of geography on social and political arrangements are receding.[39] In addition, the fragmentation of previously united multinational political communities such as Yugoslavia, the Soviet Union and Czechoslovakia, has prompted reflection on the question of "what draws a body of citizens together into a coherent and stably organised political community, and keeps that allegiance durable."[40] The persistence of various forms of sub-state nationalism which challenge the ideal of an overarching national or cosmopolitan identity also encourage reflection on this fundamental question.

In circumstances in which it is no longer credible simply to assume the existence of a culturally integrated nation state as an arena for justice and democracy, the main problem facing modern political thought is to explore potential alternative sources of social integration. These must be compatible with the principle of equal dignity, which is central for the legitimacy of constitutional states, and they must uphold the idea, also important for liberals, that political power must be amenable to public justification. The problem is one of reconciling the sometimes competing demands of legitimation and social integration.

1.3 'Normal' and 'Constitutional' politics

In order to support the basic claim that liberalism has had a narrow focus on only one

set of boundary concerns, that is, that it has concentrated on limiting political power, by defining the boundaries between private and public, rather than on engendering it, it will be useful to consider the distinction between normal and constitutional politics. It is on the basis of this distinction that, in the previous section, I charged liberalism with appealing to only a partial or attenuated conception of self-rule. In one sense, there appears to be something erroneous about the claim that modern liberalism has not been sufficiently attentive to the role of 'the people' in engendering political power. Their fears about the potential for 'the tyranny of the majority' notwithstanding, liberal thinkers such as J. S. Mill and Alexis de Tocqueville embraced democratic self-rule as being not only consistent with freedom, but required by it. Both expanded upon the negative conception of freedom, which posits that individuals are free to the extent that their actions are unimpeded by government interference.[41] They ventured that citizens' control over their own collective affairs was essential for the cultivation of individuality, civic virtue and genuine autonomy. Each accepts that good government must take the form of popularly elected government, allowing citizens collective control over their own destiny.[42] In present circumstances, it seems, the idea that an unyielding commitment to democratic self-rule is an essential correlate of individual liberty is so firmly established that President Bush frequently hails liberty as one of the U.S.A's supreme values, and democracy as one of its most precious exports.

However the ideas of popular sovereignty and self-rule thought to be required by liberty is one disciplined so as to be hospitable to rights based constitutionalism. That is, it understands self-rule as participation within pre-defined structures of representative government, most commonly through electoral processes. In understanding self-rule in these terms, a more fundamental ideal of self-rule or popular-sovereignty as the 'constituent power', that is, the power to 'constitute' political authority is eclipsed. This idea will be considered in more detail in section two of this chapter. For now, it is sufficient to note that the idea of self-rule or popular sovereignty as the 'constituent power' applies to 'constitutional politics', where this is distinct from 'normal politics' in being concerned with the formulation of 'higher law'. 'Higher law' frames the process of 'normal politics' within which governments conduct their everyday practical deliberations[43]. The institution of higher law is the business of constitutional politics,

which "represents a more democratic, if extra-ordinary, option next to normal interest group pluralist politics."[44] However, the provisions of higher law are not impervious to alteration being always open to changing interpretations.

Constitutional politics connected with the power to found and to posit is pushed to the margins as an understanding of self-rule as a feature of democratic representative government takes centre-stage. That the meaning of self-rule as constitution-making has been marginalised within the current vocabulary of politics becomes clear when we consider what the American goal of exporting democracy is normally taken to mean. Typically it is understood as the attempt to replace tyrannical regimes with some standardised form of Western liberal democracy. In the case of Iraq this has raised urgent and difficult questions about how a democratic government may be created and installed for its recipients. However, missing from the start is the founding of a new government by the action of peers.[45] The omission points to the fact that what we might understand as 'constitutional politics', that is the power to posit and found a constitutional regime, does not feature prominently in contemporary understandings of constitutionalism and democracy. Instead, the constitution is conceived of as a system of fundamental rights and procedures placed beyond the scope of arbitrary political power or indeed, the contingent power of democratic majorities. The fundamental idea is that of limiting public power through the institution of private rights, with citizens as the recipients of these rights. On this juridical conception of politics the main focus of attention becomes where the boundary between private and public should be drawn.

2. THE 'CONSTITUENT POWER' IN LIBERAL AND REPUBLICAN POLITICAL THOUGHT

Within recent political thought questions about the boundaries between private and public have been accorded high priority while the issue of how to understand 'the people' as the ultimate source of political power has been more marginal. This has served to obscure the connections linking these two distinct sets of boundary issues. These linkages can be more fully appreciated by tracing both sets of problems to their common source in the idea of constitutional government.

Fundamental to modern ideas of constitutional government is the distinction between

'constituent' and 'constituted' popular power. The former applies to the act of constituting the operative public authority as opposed to the detailed institutional arrangements that are codified and binding for the legitimate exercise of power. The doctrine of the 'constituent power', which attributes permanent and overriding power for the establishment and disestablishment of governments to the people, casts the people in the role as the ultimate holders of power. This establishes the principle, now accepted in all constitutionalist systems, that a clear distinction may be made between 'constituent' and 'ordinary' power so that alterations to fundamental constitutional procedures cannot be enacted through the procedures of normal politics, but require the consent of the general community.

This distinction between the constituent and constituted power has continuing relevance for modern understandings of constitutionalism. As Murray Forsyth has noted:

> "Both in the wording of modern constitutions, and in the modes in which they are drafted and ratified, as well as in the provisions for their amendment, it is almost inevitably acknowledged that the people as a collectivity of individuals is the 'subject' of the constitution, that all political powers emanate from them, and that there is a distinction to be drawn between the people acting in their constituent capacity and the people acting in and through the constituted structure of government."[46]

The question then inevitably arises as to how the 'people' are to be understood in their constituent capacity and how they can be said to 'act' as originators of political authority.

The idea of the 'constituent power' as the legitimating force of constitutionalism is sometimes associated with the idea of a 'founding act' and in particular with the American and French Revolutions.[47] In fact, it has earlier origins in the radical critique of the divine right of kings at the beginning of the seventeenth century. From this time, the idea of popular sovereignty replaced the widely held assumption that men were created unequal and owed allegiance to the government because the head of the government, the king, was invested with a sacred authority.[48] The idea that men are by nature free and equal leads to the replacement of the 'vertical' view of power based upon the idea of rule, with the 'horizontal' or 'reciprocal' view of political power.[49] Political authority is no longer associated with hierarchies and roles firmly rooted in the natural order. Rather, government comes to be seen as an artificial contrivance which must be justified to individuals on the basis of their moral claims.[50] These

new understandings of the individual, and his place in the natural order, raise far-reaching questions about the legitimacy of the institutions of centralised government, political authority and positive law. The natural condition of freedom and equality of individuals appears to be deeply at odds with the existence of political authority, wherein some rule and others are ruled.[51] Since the political state is now understood as an artificial contrivance, rather than being rooted in the natural order, a chasm emerges between law and morality so that the question arises as to whether individuals can have a moral obligation to perform a legal obligation.[52]

One particular response to this dilemma, which became popular in the seventeenth century, was that government was founded on a contract between rulers and ruled.[53] The novelty of this approach was in its insistence that political authority is *created* by agreement among the contracting parties.[54] On this account, citizens do not simply acquiesce in existing forms of political rule; instead 'the people' are assigned the role of originating political power. In line with this interpretation, scholars have traced the emergence of the theoretical idea of the 'constituent power', or 'constitutive power' and its foundational source in 'the people' to the political writings of Thomas Hobbes[55] and John Locke[56]. I will focus in this section on Locke's liberal interpretation of the 'constituent power' and Rousseau's republican one. Both use the idea of a 'social contract' to explain the 'founding' of political society. Locke provides an early example of the understanding of popular sovereignty as the power to found, to posit and to constitute, which may helpfully be recovered in modern circumstances of pluralism. Equally fundamental is his emphasis on trust. For Locke trust is an important element of the relationship between rulers and ruled. This idea of trust underwrites Locke's emphasis on the idea of citizenship as a *status* defined in terms of legal rights and obligations. However this trust is guaranteed through the idea of the universe as a providential order rooted in divine law. Rousseau's view of political association is less reliant upon the metaphysical assumptions that underlie Locke's account, however this leads him to search for unity in a totalising political identity in which particularity is subsumed. Both Locke and Rousseau rely on some form of social consensus as a basis for their respective accounts of the contract. Each seeks to stabilize the 'constitutive moment' of politics by appealing to some form of pre-political unity.

2.1 John Locke: constitutionalism and trust

On Locke's account, the political community is created by a contract of society, and this is a prerequisite for the delegation of the collective power of the political community to government created by majority decision.[57] It is the contract between citizens based on consent that *establishes* political authority, and so individuals owe obedience to their fellow citizens on the basis of this mutual contract. This includes the "consent to be concluded by the majority" since it is necessary, if society is not to immanently dissolve when disputes arise, that the majority have a right to conclude the rest so that they can act as one body, as 'a people'.[58] Consent moralises the act of obedience to law by making it "an act which the individual ought voluntarily to perform if he is to act morally."[59] Crucially, promises made under compulsion hold no obligation, so that societies *founded* by means of conquest or usurpation can make moral claims on individuals, only by securing the consent of the people. Since consent can incur moral obligations, individuals must understand themselves as bound by law. However, the obedience owed to government is *conditional* upon its not trespassing the bounds established by the original contract that brought the political community into being.[60] Ultimately then, the constitutive power rests permanently and exclusively with the people and devolves back to them if the constituted political power violates the terms of the contract.

On Locke's account the range of legitimate action of the constituted power is circumscribed within definite boundaries since "the authority of rulers derives wholly from rights voluntarily alienated by individuals, and also from the obligatory force of the law of nature, which for Locke is independent of any contract."[61] The state is assigned the role of enforcing the law of nature and protecting the rights of individuals. If individuals lose confidence in government's capacity to secure their rights they are freed from its subjection. The political power delegated by a political community to the representative assembly is thus understood as a fiduciary, or trustee power.[62] It is a conditional authorisation which places government in the same legal position as in any trust. That is, "the trustees have authority to act only within the bounds specified by the trust."[63] Government is understood as a trustee of the interests of society and loses its legitimacy if it violates this trust.

A notable feature of Locke's theory is that in circumstances in which a government

trespasses these bounds and breaches trust, he confidently expects that the people will act unanimously in dissolving it. He assumes, that is, "the individuals concerned will be able to act *as* a body in circumstances where formal ties between them no longer exist."[64] This is evidenced by the fact that he sees political power reverting to the political *community*. On Locke's account 'the people' act only at exceptional moments: in founding when they create political society, or in revolution when they step into the breach of trust between the governing power and individual citizens. Though rare, these moments are a permanent possibility so long as the people are understood as being in enduring possession of the constituent power. Hence a stable moral consensus must be assumed as the ultimate grounds for political authority even if it galvanises the people to act collectively only rarely.

Locke is able to assume that the people in their role as the 'constituent power' will act unanimously only on the basis that they remain at all times, in full possession of their natural rights. The idea of natural rights rests upon a supposed opposition between nature and culture.[65] This allows that individuals have certain basic rights irrespective of the particular customs, mores or cultural arrangements that might prevail, since fundamental rights are anchored in nature. [66] These rights are anterior to the establishment of government and exist independently of it. Ultimately they are rooted in a broader ontological and metaphysical framework.[67] Lawrence Cahoone describes these rights as "normatively pre-civil", by which he means, "morally binding independent of and logically prior to social convention."[68] This pre-civil understanding of rights allows for the assumption that 'the people' will act as a unified political community, both in establishing a political community for the purpose of securely protecting these rights, and in removing a government that trespasses against them. Hence as Melissa Williams notes, "a moral relationship of trust between people and government must be undergirded by a trust among the people themselves."[69]

Trust, then, has two bases in liberal constitutional societies.[70] In one aspect it is grounded in our confidence that the 'constituted power' (the relatively permanent structure of authority embodied in the form of a written constitution or a codified body of positive law) institutionalises procedures that ensure political responsibility and imposes effective restraints upon the use of political power through sanctions and incentives that make governments

accountable, and punishes breaches of trust. In another guise, it figures as a 'pervasive trust in society'[71] at large or, as a kind of 'social cement.'[72] Hence, any theory of constitutionalism that focuses solely on questions of legitimacy, that is on normative arguments about the justice and fairness of a particular set of constitutional mechanisms will be partial, since some sort of underlying consensus is needed to make these political relationships workable.

> "There must at least be some agreement amongst a significantly large or weighty part of the population upon the value of constitutional procedures. In turn this consensus itself requires certain preconditions. A situation of severe hostility between a permanent minority is not conducive even to such consensus on procedures."[73]

Though Locke sought to offer some response to the problem of legitimacy he was able to assume a broad social consensus as the basis of this trust. This in turn provides a pre-political basis for social integration.

2.2 Jean- Jacques Rousseau: constitutionalism and identification

Rousseau recognises that the broad consensus or deep social trust needed for political integration can no longer be unproblematically located in 'the nature of things' independent of human will and convention. This makes the problem of social integration more pressing. Though Rousseau never explicitly questioned the received understanding of natural law as having a divine source, he considered this too abstract a basis for positive law and political rights.[74] William Connolly interprets his oft quoted aphorism 'Man is born free; and everywhere is in chains', as an indication of Rousseau's clarity about the bankruptcy of traditional discourses of justification in which God is appealed to as the transcendent authority for law, and an expression of the intensity with which the institutions and procedures of political society were now understood as conventional.[75] Though his theory follows the form of social contract theories in appointing 'the social order as a sacred right which is the basis of all other rights' he holds that "this right does not come from nature, and must therefore be founded on conventions."[76] This has some important implications.

Firstly, since for Rousseau divine ordinance does not translate into human guidance at the level of social relations, these are understood as being tinged with conventionality. They are thought of as having a plasticity that would have been incomprehensible from the

standpoint of the natural law accounts of Hobbes and Locke. This allows Rousseau to combine an analysis of political authority with a critique of the broader social relations in which it is situated. This insight becomes an extremely important driving force behind the emancipatory tendency in Enlightenment social theory, which "fostered a recurrent reflection on the *validity* of social arrangements."[77] Kant's defines Enlightenment as "the freedom to make public use of one's reason in all matters", and to "lay publicly before the world their thoughts about a better formulation of legislation as well as a candid criticism of laws already given."[78] This loosens up the boundaries between private and public by interpreting these as being conventional and so answerable to critical rationality. Rousseau himself offers a critique of property rights supposed by Locke to be inviolable, on the grounds that there can be no convincing public justifications for rights that uphold such major disparities of wealth.[79] However, with the presumption of a unified rationality, the assumption persists that a correct and universally valid demarcation between private and public can be found.

Secondly, though Rousseau, like Locke, draws upon the idea of contract, he focuses his analysis specifically on what Locke understands as the 'original compact' on the basis of which the 'body politic' is founded. As we have seen, this is the basis for the 'constitutive power' of government to which Locke attaches a "normatively pre-civil" unity through the theory of natural rights. In the opening pages of the 'Social Contract' Rousseau writes,

> "It would be better, before examining the act by which a people chooses a king, to examine that by which it has become a people; for this act, being necessarily prior to the other, is the true foundation of society."[80]

Rousseau thinks that human governments will not be stable unless they are founded on a "more solid basis than mere reasons."[81] Some motivational thickening agent is required to transform a collection of individuals into a citizen body governed by law. He thinks that law, having lost its sacred inviolable character, will be impotent unless it engages the hearts and minds of citizens. Law must embody the autonomous will of each individual citizen if it is to be compatible with freedom and a source of internal obligation rather than simply a condition for external compliance. Ultimately, Rousseau supposes that a harmonious social order can be the well-spring of virtuous motivations predisposing citizens to agreement on the general will. This view has been justifiably criticised on the grounds that it is predicated upon a sustained

commitment to an illusory common good, and corresponding renunciation of private interest.[82]

Rousseau's account of the 'constitutive power' is highly problematic for several reasons. Most damagingly, Rousseau appears to frame 'the people' as a corporate body, integrated as a cohesive moral community, with a unanimous will. In modern diverse societies, this ideal of unanimity is rightly viewed with suspicion. At best, it appears hopelessly misconceived: at worst, potentially authoritarian. His romantic vision of a complete identity between rulers and ruled lead him to disavow liberal models of representative government, but modern constitutional government is necessarily representative government. Though I am suggesting that a principle of popular sovereignty must be central for an adequate understanding of modern constitutionalism, and that this entails conceptualising 'the people' as something more than an aggregation of individuals, it cannot entail imposing a homogenous identity on the people or doing away with structures of representative government. If the common political identity were so homogenous as to lack differences susceptible to becoming implicated in political conflicts, there would be no need to impose the kind of constraints usually associated with constitutionalism, such as limited government, the rule of law and schedules of basic rights.[83] In incorporating these elements, and understanding the political relationship in terms of 'trust' rather than 'identity', Locke's account of limited constitutional government seems more apposite than is Rousseau's radical conception of popular self-government as a model of political authority.

Rousseau's importance was in comprehending, more fully than did Locke, the magnitude of the problem of authorisation for a secularised political realm. Modern constitutional states require a relatively high level of commitment from citizens in order to enjoin their obedience to democratically enacted laws with which they personally may disagree. Trust is needed also to sustain welfare commitments and to uphold principles of tolerance and mutual respect in conditions of deep diversity. Hence, the diversity and complexity of modern society notwithstanding, the problem identified by Rousseau of conceptualising 'the people' as an identifiable collective body cannot easily be sidelined, not only because they are the ultimate source of political power, but also because the legitimate exercise of this political power presupposes a background of social trust.

2.3 Hannah Arendt: political action and constitutionalism

As Andreas Kalyvas has recently noted, the idea of the constitutive power as the sovereign political power barely appears in contemporary constitutional theory, and when it is mentioned it is quickly denounced and rejected.[84] The idea of constitutionalism that has become dominant since the nineteenth century is a narrow juridical one. On this view legally entrenched rights must always be given priority over collective political goals. The constitution is understood as a guaranteed framework of rights and, as an essential constraint upon political power.[85] However, this interpretation downplays two important features of constitutionalism, which it is helpful to recover if we are to offer a more comprehensive treatment of the idea of citizenship in modern conditions of pluralism. The first of these themes is the idea of the constituent power as the positing or founding power, which survives the dissolution of governments. The second is the tense and ambivalent relation that this constituent power bears to the order that it authorises.[86] The political thought of Hannah Arendt is suggestive for purposes of elaborating each of these themes, which I consider in turn.

Firstly, Arendt interprets constitutionalism as a means of engendering, and making effective, positive political power. This leads her to view political action as constitutive of the political as such. Positive political power is an 'end in itself', and as such can be distinguished from strength, force and violence, all of which utilise an instrumental conception of action.[87] Power, on Arendt's view "corresponds to the human ability not just to act but to act in concert."[88] She maintains that, "All political institutions are materialisations of power; they petrify and decay as soon as the living power of the people ceases to uphold them."[89] Nothing can serve as a stand-in for the power engendered by acting in concert, as the legitimating source of institutions and practices within a state.

It is helpful to recover the idea of political action as being constitutive of membership of a political community in circumstances in which the dominant trends within political thought have fallen within a broad terrain mapped out by liberal and republican approaches. These approaches have emphasised either legal integration through rights, or they have focused on affective ties or a shared orientation to values as being constitutive of the bonds that hold the political community together. Of course there is no route back to the ideal of political action

associated with the direct democracy of Ancient Greece, which Arendt sometimes appears to hold up as exemplary.[90] Whereas in a direct democracy 'the people' and 'the government' are one and the same, some form of representative government is inevitable in modern complex societies. Arendt recognises this, but maintains that genuinely democratic representation is possible only where the centralized, large scale, and necessarily abstract representative system of the constitutional state is supported by a lively, participatory, direct democracy at the local level.[91] Contrary to the thinking of many of her contemporaries, who concluded that elite forms of rule were necessary to guard against the potential for majority tyranny ever-present in mass democracies, Arendt held that political participation is essential for building up the intersubjective understandings that are an essential basis for citizenship.[92]

Action has a close connection with the human condition of natality because it always involves beginning something new.[93] Action is defined by its initiatory and unpredictable character. In the political sphere action always involves our appearing before peers and revealing our distinct identities. Arendt therefore, characterises the public realm as a 'space of appearance'. Because individual acts of self-disclosure take place and initiate new beginnings, not in a vacuum, but within an already existing web of relationships, action has an unpredictable and contingent character. This is what Arendt designates as the 'boundlessness' of action.[94] Her contention is that "action cuts across boundaries because it occurs in the presence of fellow men equally capable of acting on their own."[95] In Arendt's view the boundlessness and individuating quality of political action is however, only the reverse side of its capacity for establishing relationships. Individuals value change, novelty and new beginnings, only against a background of relative stability. She suggests that the 'uniquely human way of ordering the future' and providing for stability and solidarity is through the making and keeping of promises.[96] Promises form the basis of reciprocal trust among free and equal individuals for Arendt. She recognises too that action must have a constitutional referent for it to qualify as political.[97] The importance attached to possibilities for participatory democracy and political action as alternative sources of social integration cannot be allowed to usurp the crucial role of constitutional structures, such as representative government and the rule of law, in guaranteeing citizenship as a status.

This brings us to the second feature of constitutional government that we need to reclaim in order to develop a more satisfactory account of citizenship, that is, the tense and ambivalent relationship between the constituent power and the constitutional order that it authorises. While recognising the importance of citizenship as a status inscribed in law, Arendt avoids the problem of a total juridification of politics in two ways. Firstly, she appreciates that the instituted reality, or 'constituted authority', does not exhaust the whole range of legitimate forms of political action. Action cannot be subsumed by institutionalised politics. All legal orders have a constitutive outside. In acknowledging the role of the 'constituent power' in establishing, yet remaining on the margins of established legal rules, the boundaries of politics are expanded to include more direct and effective forms of political action. "From the point of view of the constituent power, phenomena such as civil disobedience, irregular and informal movements, insurgencies and revolutionary upheavals retain all their dignity and significance even if they directly challenge the existing constitutional structure of power."[98]

In addition, since it is through action that we reveal our distinct and unique identities, these identities can never be fully known either to us or to our contemporaries. On Arendt's account, identity is co-extensive with, not prior to action in the political sphere. Hence we cannot take a unified coherent identity as a prepolitical given, "rather, it is an *achievement,* the product of action."[99] This erases the possibility of establishing boundaries between private and public on the basis of any pre-political conception of identity. It leads us inexorably to a conception of citizens as active agents who constantly renegotiate these boundaries, rather than as political subjects who, in virtue of their status as bearers of rights, have their private interests protected from the contingencies of political power. Boundaries between public and private will still be important on this account, political action being defined precisely by its being action in public, or in the 'space of appearances', but no consensus about where these boundaries should be drawn will be available to participants in advance of the democratic process.

Liberals have looked to rights as a tool for protecting the freedom of individuals. Although the concrete content of these rights is continually being redefined in the struggles of successive social groups, for example, the working class, women, or more recently gays,

lesbians, the physically disabled, and minority cultural ethnic and linguistic groups, liberals have tended to ascribe a "foundational character" to rights as such.[100] On this view, the intrinsic value of democracy is obscured. Its role becomes that of protecting or realizing the interests that belong to individuals or groups independently of political life. Where identity is understood as being intersubjectively constituted through action in public, democracy can instead be interpreted as having intrinsic value. Deliberation among plural political actors comes to be seen as a necessary precondition for identifying and distinguishing plural, common and emergent interests.[101] It places greater emphasis upon participation in democratic processes and raises the possibility that individual interests might be reconstituted and transformed through deliberative processes that develop the capacities and virtues associated with citizenship.[102]

3. LIBERALISM AND DIVERSITY

It is not uncommon to preface contemporary discussions on the nature of the political, with an acknowledgement of diversity and pluralism as important and inescapable features of contemporary political life.[103] Undoubtedly, pluralism is a pervasive feature of the modern social world and the concept of difference is a salient theme within contemporary conceptualisations of the political. However, the novelty and specific character of the challenge that contemporary forms of diversity pose for democratic constitutionalism becomes clear only once we approach more specific questions about which forms of difference embody normative claims and ought to be treated as politically negotiable. Here there is far less consensus. Though it is readily accepted that pluralism is a ubiquitous feature of modern social and political life, the problem of determining which forms of diversity are politically relevant is itself the subject of profound disagreement and contestation. Liberal theorists have usually focused on diversity of opinion and belief as being the main challenge that belies the establishment of a stable and just constitutional order. More recently though it has been suggested that the existence of diverse cultural identities within a political state, whose self-definitions are couched in terms of an appeal to a shared nationality, language, culture and ethnicity, represent an equally profound challenge for liberal constitutionalism, which cannot be adequately addressed

through a liberal framework designed to manage religious and moral diversity within relatively homogenous nation states.

The liberal principle of toleration was first developed as a response to the wars of religion in Europe, but later came to cover other issues of moral disagreement, which could feasibly be understood as issues of conscience. As well as leaving a wide scope for personal choice on these matters, it was thought that the state should be committed to the principle of neutrality through difference-blindness on matters of policy formulation. The fundamental premise behind these ideas is that if the state were to promote certain religious or moral ends, it would not meet the demands of public justification, since it would necessarily privilege some ways of life over others. For J.S Mill the issue is one of preserving individuality and choice, and making possible a variety of 'experiments of living' through fundamental rights to freedom of speech, religion, and association. For Mill, the scope of private rights, and of public power is decided in advance of the democratic process by 'one very simple principle', whereby an individual may be legitimately coerced only to prevent harm to others.[104] This principle is intended to preserve the rationality of government within the sphere of public decision-making, newly expanded with the extension of the franchise. Ultimately, Mill conceives the function of government as providing for individual freedom and moral progress. He thinks that the contest of competing ways of life can lead to truth.[105]

Contemporary liberals such as John Rawls, Stephen Macedo and Stephen Holmes are also concerned to preserve the rationality and universality that they find implicit in the liberal model of citizenship, but recognising the deep nature of moral conflict, take a different approach to its defence.[106] These theorists break significantly from their nineteenth century liberal forbearers, such as J.S Mill in suggesting that principles of toleration and public reason should not only guide decisions on public policy, but must also be applicable to constitutional essentials themselves. They nevertheless remain committed to the basic idea that toleration entails difference-blindness. They argue that cultural claims should be removed from the public agenda since, for the state to become embroiled in these kinds of conflict would entail its having to surrender its commitment to remain neutral between different ways of life. In this section, I will focus on Rawls' defence of liberal neutralism and Kymlicka's critique of it.

Kymlicka claims that cultural pluralism is of a fundamentally different nature than moral or religious pluralism. In common with other theorists sympathetic to cultural claims, Kymlicka claims that the homogenising and assimilationist thrust of the wider society, which places unfair pressures on minority groups, will only be reinforced by the principle of difference-blindness.[107]

What I aim to draw attention to in this section is the 'juridical' bent of both Rawls and Kymlicka's approach. Kymlicka, while renouncing Rawls' commitment to difference-blindness, remains tied by the categories installed by nineteenth century liberalism, in particular its emphasis on rights. He claims that cultural identities should be constitutionally protected from the assimilationist thrust of majoritarian politics, which threatens to compromise the cultural integrity of minority constituencies.[108] Each side in the debate attempts to fix the boundaries of private and public. They fail to acknowledge the contestability of interpretations of culture and identity and the need to continuously renegotiate these. This is a consequence of the fact that both attempt to stabilize the constitutive moment of constitutionalism by appealing to a privileged extra-political standpoint.

3.1 Rawls: liberal citizenship and public reason.

Liberalism has, at the most fundamental level, a deep concern with providing public justifications for the exercise of political power. On the liberal view, political legitimacy is strongly related to the idea of public justification, where this requires that "the *application* of power should be accompanied with reasons that all reasonable people should be able to accept."[109] (Emphasis added). The idea of 'the people' engendering political power has been less central to the liberal tradition, at least at the level of higher law and constitutional essentials, than has the quest to find a consensus about the norms and procedures for exercising that political power. However finding some basis for a consensus which can define the moral core of liberal constitutional government appears difficult in circumstances in which there is deep disagreement about ultimate values.

In recent times, liberal neutralism has attempted to define the moral core of liberalism in a way that is compatible with pluralism and takes on board "the absolute depth of irreconcilable latent conflict."[110] For Rawls, this pluralism is neither a disaster nor a means to progress and truth, but is rather the "the natural outcome of the activities of human reason

under enduring free institutions".[111] Consequently, pluralism is understood as a permanent feature of contemporary democratic society and "not a mere historical condition soon to pass away."[112] It is a normatively significant feature since it is related to the intellectual and moral powers shared by all human beings to form, revise and rationally pursue a conception of the good.[113] For these reasons, a serious acknowledgement of the 'fact of pluralism' must provide the starting point for developing a conception of a 'well ordered constitutional democratic society'.[114] The problems engendered by moral, religious and philosophical pluralism, must be treated as problems of political justice not problems of the highest good.[115] The aim is to develop a purely political liberalism, one that makes no substantive claims about the truth or falsity of different comprehensive doctrines.

Rawls contends that since no one comprehensive doctrine will be shared by all of the citizens in a society, a political liberalism cannot appeal to any one of these comprehensive world-views if it is to arrive at principles of justice that all can agree to. Rawls describes a comprehensive doctrine as being one that takes an evaluative stance on questions relating to what is of value in human life, ideals of personal character, as well as ideals of friendship and familial relationship. A comprehensive doctrine will incorporate these evaluative positions into a rather precisely articulated system.[116] In a democratic society, the free exercise of human reason will lead people to affirm different comprehensive doctrines. Its political culture then, will be "marked by a diversity of opposing and irreconcilable religious, philosophical, and moral doctrines".[117]

In these circumstances, it is not legitimate to use the power of the state to promote any particular comprehensive doctrine.[118] Rather, political liberalism can fulfil the requirement of equal citizenship only through arriving at constitutional arrangements that can define the government's relation to its citizens, and their relationship to one another, in terms which all can accept while disagreeing about our ultimate convictions.[119] It must specify the nature and limits of these relationships at the level of constitutional essentials and matters of basic justice.[120]

> "Constitutional essentials concern questions about what political rights and liberties, say, may reasonably be included in a written constitution, when assuming the constitution may be interpreted by a supreme court, or some similar body. Matters of basic justice relate to

> the basic structure of society and so would concern questions of basic economic and social justice and other things not covered by the constitution."[121]

This limited range of issues must be decided, Rawls thinks, on the basis of a form of public reason which can address questions of justice, without appealing to ideas about truth and the good. To this end, controversial beliefs must be 'bracketed' when it comes to deciding about constitutional essentials and laying down the groundwork for common political institutions. This does not entail that citizens must deny those comprehensive doctrines that are the ultimate ground for their political convictions, only that their truth may not be invoked as compelling reasons for deciding matters of basic justice.[122] Rawls assumes that reasonable people, subject to what he calls the 'burdens of judgement' will recognise the difficulty of reaching substantive agreement on questions of rights and basic justice, and will not seek to impose their comprehensive doctrines upon others. Recognising that the reasons which one takes to be true and compelling may be rejected by others who are themselves reasonable, citizens will submit to the requirements of public reason. I now want to turn specifically to the issue of the way in which neutralist liberalism treats the two boundary-drawing questions alluded to at the beginning of the chapter in order to highlight the main difficulties that I think attach to this perspective.

3.11 Boundaries between private and public: moral pluralism and social difference

The main emphasis of the neutralist approach is on boundaries between private and public. Specifically, it aims to achieve consensus by appealing to criteria that limit the impact of private disagreement on defining the terms of a well-ordered society. These criteria are supposed to mark out a privileged standpoint above the fray of disagreement, which can be appealed to in order to arrive at agreement on basic rights and principles of justice. Since this agreement is the object of an 'overlapping consensus' between 'comprehensive doctrines' a status for citizenship based upon these principles will meet with the consent of all reasonable people and so may be secured in higher law. The status of citizenship thereby not only meets the requirement of public justification, but is also protected from the arbitrary exercises of political power, political bargaining or to the calculus of social interests. The aim is to place the constitution beyond disputes arising from the fact of pluralism.

However, this aim of placing the basic terms of the constitution beyond disagreement starts to look problematic once the appropriateness of political liberalism's criteria for drawing boundaries between private and public is placed under scrutiny. On this approach, the public tends to be distinguished from the private by its supposed adherence to principles of neutrality, interpreted as difference-blindness. In the sphere of moral and philosophical disagreement between competing world-views, this is achieved by means of 'bracketing' controversial comprehensive doctrines. In the sphere of social difference, it is achieved by arriving at principles of justice that treat ascriptive characteristics as "arbitrary from the moral point of view." On this view, social difference is seen as irrelevant for the determination of citizenship status. Rights are assigned to individual citizens irrespective of their differences. In both moral and social arenas then, the public is isolated as an arena in which equality between diverse individuals is realised through principles of difference-blindness.

These principles of difference-blindness are unequal to the challenges of both moral and social pluralism that characterise modern diverse societies. In the case of moral pluralism, it is not clear that insulating the public from moral disagreement, based on the reasonable pluralism of competing comprehensive doctrines, is as viable or as desirable as Rawls seems to think it is. It places high demands upon those engaged in public deliberations in asking them to appeal to non-controversial reasons for their proposals.[123] Furthermore, if it were consistently adhered to, it would be likely to have an agenda-setting impact and to place the boundaries between private and public beyond political contest. Constitutional essentials and matters of basic justice are matters on which people can and do reasonably disagree. As Bellamy points out, "far from holding the ring for political debate, the basic liberties are themselves matters of deep disagreement."[124] The interpretation of constitutional essentials is always disputed and cannot be entirely immunized from political contestation. In fact, it is often over the most fundamental value questions that there is deep and persistent disagreement within constitutional states.

Rawls regards the Supreme Court as being the key arbiter in these disputes within the context of the United States. He suggests that it is the constitutional mechanism that best instantiates a commitment to the ideal of public reason in its deliberations.[125] However, this is

far from being a democratic institution, which devolves to 'the people' the power of interpretation of basic rights and liberties. Rather it assumes that there must be a privileged standpoint above the fray of competing world-views to which professional experts, such as judges, may appeal to determine where the line between public and private should be drawn. The assumption is that justice can be defined in the abstract and also "interpreted and enforced by judges and other agents of a neutral and impartial state."[126]

This privileged standpoint is also incorporated into a conception of public reason that decides the acceptable range of comprehensive conceptions of the good.[127] The theory seeks to establish *a priori* which reasons count as public reasons and could be consistently endorsed by citizens with differing comprehensive doctrines. It is suggested that those reasons which are reasons for each, in virtue of their being reasons for all, will always take precedence over reasons rooted in comprehensive doctrines in deciding on constitutional essentials. If this position is consistently pursued, it will almost undoubtedly have an agenda-shaping impact, possibly removing important issues such as slavery, abortion and demands for self-governing powers from the political agenda. Each of these issues is tied up with constitutional fundamentals, but deliberations about each of them are almost unthinkable without appeals to comprehensive doctrines being admissible. Rawls contends that an 'overlapping consensus' can be arrived at, which is endorsed by those 'reasonable' comprehensive views that take on board the 'burdens of judgement'. The 'reasonable' in Rawls' theory does much of the work that the 'rational' did in earlier liberal thought. That is, it provides a point of convergence among diverse agents around which universal political principles can be ascertained, and a unitary system of law developed. Political disagreement is thus limited, as it was for Locke, to the issue of whether government is fulfilling its pre-politically defined role. However Rawls places the Supreme Court ahead of the people in this supervisory role.

The implication of the Rawlsian approach for issues of social difference appears equally problematic. The idea that ascriptive group differences should play no role in defining the status of citizenship seems inadequate for dealing with modern forms of pluralism. The idea of equality as difference-blindness was a powerful ideal in the context of the civil rights movements of the 1960s. During this time, liberal theories that emphasised ideas of difference-

blindness and principles of non-discrimination in the provision of rights were understandably ascendant since they had the capacity to reconfigure unequal and unjust power relationships between blacks and whites, men and women, gays and straights.[128] In contemporary circumstances though, this difference-blindness, which appeared to have strong emancipatory potential as an expression of the ideal of universality implicit in this liberal conception of citizenship, has come to be recast as a powerful exclusionary discourse. One of the striking features of contemporary forms of diversity is that many groups seek differential treatment on the basis of their particular concrete identities. This emphasis on particularity may have particular resonance in circumstances where groups and identities have suffered a long history of neglect, or where groups are struggling to integrate into a society that accords a high priority to values or ways of life that they have not traditionally shared.[129] In these cases it seems unlikely that principles of difference-blindness will be "sufficient effectively to attack actual forms of discrimination that are linked to the different social weight and standing attached to the various conceptions of the good in real societies".[130] The principle of difference-blindness may then be found wanting as far as dealing with issues of social difference, which are frequently rooted in the unequal power relationships that hold between different social groups, integrated by different conceptions of the good.

Nancy Fraser, Anna Elisabetta Galeotti and Anne Philips, have each argued that identity is a politically salient form of difference because of conflicts engendered by the impaired inclusion of new and traditional minorities into democratic society.[131] They suggest that inclusion cannot be understood simply in terms of the equal enjoyment of legal rights, but must also be understood as the ability to have equal opportunities to secure the benefits of political citizenship, and be extended equal consideration as members of the political community.[132] Inclusion may be impaired due to the economic, social, cultural or institutional formations that prevail in a given society. On this approach, identity related differences come to have political significance in view of their relationship with existing political and institutional complexes that they occupy, they do not in themselves have an independent normative and political status. The main claim is that a failure to consider the real existing circumstances in the determination of principles of justice is likely to entrench existing forms of marginalisation and oppression

rather than providing fair terms for equal citizenship.

3.12 Conceptualising 'the people'

In order to explain why liberal neutralism has provided such an unsatisfactory response to questions of social difference, it is useful to consider the way in which it has treated, or more accurately, neglected, the second form of boundary drawing. The Rawlsian model of equal citizenship takes for granted the idea that the people upon whom rights devolve, and to whom principles of justice apply, are already defined by the boundaries of the nation state. David Archard notes that though Rawls intends his theory of justice as fairness to apply specifically to a ''self sufficient', bounded society 'possessing a more or less complete culture',[133] he has little to say about nationality, nor about the significance of the nation state as an arena for justice and democracy.[134] This raises particular difficulties for a theory which purports to be neutral between competing comprehensive doctrines since the importance attached to a given territorial identity within modern political thought has tended to assume a link between territory and a common political culture defined by shared values. In culturally plural societies then, appeals to a common national identity has the potential to ostracize those groups who have historically been excluded from the definition of that identity or have been maligned in the very definition of that identity.[135] Rawls' assumption that some national society must be the basis of membership of the political community is, according to David Miller "kept well hidden in the background… … for fear that if it were brought out into the open, it might cause trouble for the distinction between justice and conceptions of the good."[136] It is worth considering then, another model of liberal citizenship that makes the concept of the nation explicit, but wishes to retain the distinction between the right and the good.

3.2 Kymlicka: liberal multicultural citizenship

Kymlicka advances a model of liberalism that allows considerable latitude for introducing rights and policies aimed at preserving the cultural integrity of minority groups. This requires a qualified departure from the principle of difference-blindness that underpins the liberal response to social difference. He maintains however, that supporting the aims of different cultures within the constitutional state to uphold their distinct cultural identity does

not necessitate surrendering what he takes to be the moral core of liberalism, which consists in spelling out the meaning of justice rather than affirming a particular conception of the good that embodies the highest form of life for human beings. He asserts powerfully, "I don't believe there is a real issue about the right and the good and which is prior. Critics and defenders of liberalism share the view that principles of right are a spelling-out of the requirement that we give equal consideration to each person's good."[137]

Kymlicka argues that a wide range of minority rights and immunities and infrastructural benefits are acceptable in circumstances where they mitigate the effects of those morally arbitrary differences which deprive individuals of equal access to the cultural structures within which they make sense of their lives. He maintains "liberals should be concerned with the fate of cultural structures, not because they have moral status of their own but because it's only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value."[138] Secure cultural structures, Kymlicka suggests, are needed for the pursuit of self-chosen ends. This means that the fate of cultural structures cannot be a matter of indifference for liberals for whom justice requires that individuals should be free to pursue their own conceptions of the good provided this is compatible with the like liberty of all.

While continuing to affirm the priority of the right over the good, Kymlicka's theory of multicultural citizenship connects up the two kinds of boundary-drawing alluded to previously more explicitly than does Rawls' liberal neutralism, and this allows him to redraw the boundaries between private and public proposed by difference-blind liberals. On Kymlicka's view, the state defines itself not only as an impartial framework of rules, but also as a national community embodying certain cultural norms. Any given state will inevitably support a particular curriculum for public education, institutionalise an official language, declare public holidays, and legally recognise certain types of partnership through the institution of marriage. This means that 'the people' are defined, not simply by virtue of their occupancy of a given territory, but also by their sharing in a national culture. He develops a comprehensive theory of cultural rights as a means of protecting minorities from the assimilationist pressures that this places them under.

To understand the significance of cultural nationalism for Kymlicka's overall view, it will

be necessary to consider his idea of a 'societal culture'. A 'societal culture', Kymlicka tells us, is "a culture which provides its members with meaningful ways of life across a full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. These cultures tend to be territorially concentrated and based on a shared language."[139] He defines societal cultures in respect of their having a structural framework, provided for by common institutions and practices. It appears to be this structural element of culture, as opposed to the more affective dimensions of shared memories and values which make them important as contexts of choice.[140]

Since societal cultures are 'encompassing cultures' they provide, not only a range of options for individuals to choose from, but also a context which makes these choices meaningful. Access to a societal culture is necessary if individuals are to make autonomous choices.[141] On Kymlicka's account, "societal cultures are almost invariably national cultures", just as "nations are almost invariably societal cultures."[142]

The theory of multicultural citizenship advanced by Kymlicka proposes a range of options for cultural protections. He draws a sharp distinction between societal or national cultures on the one hand, and immigrant and ethnic cultures on the other hand, in assigning those cultural protections. Immigrants may coalesce into loose associations or 'ethnic groups', Kymlicka argues, but they do not usually represent distinct societal cultures since they lack the institutional structures which usually arise from the historical occupancy of a given territory. Immigrants have typically chosen to leave their national culture to enter a new societal culture. Furthermore, the fact that their emigration is in most cases voluntary, affects the legitimacy of their claims. Hence, "while voluntary immigrants can legitimately assert certain polyethnic rights they have no claim of justice to national self-government".[143]

Polyethnic rights are those which grant public funding, legal exemptions and other forms of state-protection to cultural, ethnic and religious groups. They aim to "help ethnic groups and religious minorities express their cultural particularity and pride without it hampering their success in the economic and political institutions of the dominant society."[144] Although self-government rights are reserved for national groups, both national groups and immigrants may be eligible for special representation rights, which guarantee places for

minority representatives in state institutions, including legislatures.

In the case of national minorities, special representation may be linked to measures of self-government, but where this is the case, little can be settled in an abstract discussion of principles.[145] Special representation rights though, are not necessarily linked with provisions that enable self-government and so can be appropriate for non-national groups also. In these cases it is to be regarded as a temporary measure to overcome the historical prejudices that have marginalised groups from the political process. Kymlicka therefore rules out the idea of mirror representation, the idea that the legislature should 'mirror' the constitution of the people in respect of gender, class, ethnicity, language etc, as a general principle of representation. Group specific representation is not predicated on the idea that only members of that group can accurately represent the interests and values of its members.

A further consideration applies to the full range of these self-government, special representation and polyethnic rights. Kymlicka proposes a distinction between "internal restrictions" and "external protections" in order to prevent a cultural group's practices from compromising the right of individuals to pursue their own conceptions of the good. As we have seen, the idea that the state must remain neutral between comprehensive doctrines as opposed to supporting any one of them continues to define the moral core of liberalism for Kymlicka. The idea that each individual should be free to live a self-chosen life is basic to a liberal conception of citizenship that takes this as its starting point. He therefore supports "external protections" which protect groups from the homogenising thrust of the majority culture while opposing "internal restrictions" through which cultural groups may attempt to impose a homogenous identity upon its own members.

Kymlicka argues that assimilationist pressures are an inevitable part of a state's nation-building. This nation-building should not on this account be understood as essentially imperialistic or oppressive, he insists, since it serves a number of important goals and is essential for promoting the sort of solidarity which is required by pluralistic welfare democracies.[146] Kymlicka agrees with Yael Tamir that most liberals are in fact liberal nationalists in that they implicitly accept the nation as the basic unit of analysis.[147] Once the implications of this assumption are made explicit, he thinks, it is difficult to support the ends of

a 'societal culture' which has the coercive power of the state at its disposal, if these ends entail the destruction of other 'societal cultures' within its jurisdiction. Rather, the responsibility of the liberal state is to mitigate the minority nation-destroying tendencies that may follow as an unintended consequence of the legitimate enterprise of state nation-building.[148]

Kymlicka is undoubtedly drawing upon the 'Northern American experience', wherein indigenous people such as American and Canadian Indians, and other groups such as the French Canadian Quebecois might make reasonable claims for the protection of their 'more or less complete societal cultures.'[149] From the point of view of ethnic groups, the state has a responsibility to ensure that the societal culture into which they integrate provides non-prejudicial terms of association, in the form of laws and exemptions which respect their distinct practices, and encourages integration through other forms of public support, such as supporting more positive images of ethnic groups through the education curriculum, government documents and the media.[150] While these 'external protections' are not only legitimate but required within liberal societies, 'internal restriction' which involve the claims of groups against their own members, 'designed to protect the group from the destabilizing impact of *internal* dissent', cannot be allowed on a liberal account of minority rights.[151]

Even with this important qualification in place, Kymlicka is confronted with the challenge that some of the groups supported by external protections might be illiberal. Given the deep ties which Kymlicka argues exist between individual identity and cultural structures, and the sense of anomie and powerlessness which he thinks can arise from the breakdown of culture, this is a real dilemma for a liberal theory of minority rights. Although the bar on 'internal restrictions' means that groups cannot prevent an individual from expressing dissent, rejecting cultural norms, or breaking with her cultural heritage, it must be assumed on the terms of Kymlicka's own theory, that none of these strategies would be without cost for the individual concerned.

Kymlicka acknowledges the dilemma here and proposes that the appropriate response on the part of liberals to non-liberal cultures should be to 'liberalize' them.[152] He assumes that this is ultimately less costly for individual members than the ultimate dissolution of their culture would be, since it is more gradual and will preserve the elements of the culture that are not

illiberal and enhance individual well-being. He asserts that, "all cultures have illiberal strands, just as few cultures are entirely repressive of individual liberty."[153] He thereby tacitly endorses the view that all cultures have some worth in contributing to the wellbeing of their members.

Kymlicka offers one of the most systematic attempts to deal with some of the difficult challenges facing multicultural liberal democratic states. Inevitably his schematic approach leaves several groups in grey areas since they do not easily fit the categories of voluntary immigrants or societal cultures, for example asylum seekers and gypsies. It also leaves several issues unresolved. That a normative theory cannot provide definitive guidance on a range of practical dilemmas need not undermine it of course, but some of the problems that Kymlicka's theory raises have deeper roots.

Firstly, it is not clear that the distinction between internal restrictions and external protections can provide a means of distinguishing those measures that are legitimate from a liberal perspective and those which are not. Recent proposals for legislation designed to protect religious groups from denigration in public life, provide a useful example how 'external protections', which Kymlicka regards as being legitimate, might be appropriated by groups in order to restrict dissent among members.[154] In order, that is, to impose internal restrictions.[155] The stated aim of British legislation in this area is to close a loophole in existing provisions against prejudice and discrimination whereby 'mono-ethnic religious groups (such as Jews and Sikhs) are covered by existing laws but multiethnic religious groups (such as Muslims and Hindus) are not.[156] It seems to accord precisely with the aim of providing fair and equal terms for political integration which "external protections" are supposed to provide. However, concerns have been raised among liberals that laws against religious hatred might be utilised by religious leaders to control apostasy within the community and restrict freedom of expression.[157] This is a real concern for liberals such as Kymlicka who think that the liberal state must also support the liberal ideal of personal autonomy and support freedom of conscience, whereby individuals are free to rationally revise their beliefs and commitments.[158]

Secondly, questions might be raised about whether a comprehensive view of culture, and of the value of cultural membership, can coherently be combined with a strong commitment to enabling individuals to live self-chosen lives. The latter idea seems to require

that individuals have a choice between a range of available cultural options. We need look no further than the example of the National Museum of American Indians highlighted in the introduction to this chapter, to provide an example of how these competing commitments to cultural protection and personal autonomy may conflict. Kymlicka points out "many liberals defend state funding of the arts or museums on the ground that the state has a responsibility to ensure an adequate range of options for future generations, which the cultural market place may fail to protect."[159] However, the principle that cultures should be protected as an option for future generations is both too exhaustive to be reserved for cultural and ethnic groups, and too narrow to legitimate the particular aims and practices of, for example, the NMAI.

Christine Sypnowich helpfully points out that "There are many ways of life, not necessarily connected to nationality or ethnicity, that are important to individuals and that could count as quasi-cultural forms of deserving of protection."[160] She offers mining communities, fishing villages and cottage industries as examples of ways of life that give meaning and value to people's lives, but which might require costly subsidies to perpetuate. As we have seen though, Kymlicka's emphasis is on particular kinds of culture. He thinks that 'societal cultures' in particular are worthy of protection. This is because liberalism's implicit commitment to cultural nationalism is prejudicial to certain types of group in particular.

Kymlicka's rejection of the option of assimilation into an overarching national culture is supported by the further proposition that 'societal cultures' are uniquely important for individual freedom and well-being. As we have seen, he attributes this to the idea that cultural structures give meaning and value to individual choices. He describes 'societal cultures' as 'encompassing'. The problem is that this brings Kymlicka close to endorsing a form of cultural essentialism. As Kymlicka's represents it, societal cultures are so comprehensive that they are almost the sole determinant of individual choice. Carens notes that "instead of claiming (as is plausible) that the language and national culture of the place where one lives will normally play *an* important role in shaping the sorts of choices one faces, Kymlicka presents societal culture as if it were the sole and comprehensive determinant of one's context of choice."[161] This leads Paul Gilbert to suspect that there is a covert functionalism at work in Kymlicka's thinking. "It is the assumption of functional wholes that enables cultural groups- which… … Kymlicka identifies

with nations- to be identified as what provides [contexts of choice], rather than more local or more wide-ranging cultures."[162] Once we come to think about cultures as functional wholes in this way, the goal embodied in the idea of the NMAI, to make each culture the guardian and interpreter of their own heritage, appears reasonable, yet it raises legitimate concerns among liberals.

The idea that cultural histories and identities have a determinate content that can only be interpreted from those on 'the inside' seems to foreclose possibilities for a critical interrogation of cultural interpretations and historical orthodoxies. This raises concerns about the potential simplification of cultural histories, and by extension of cultural identities.[163] These concerns are exacerbated if powerful members of the group are able to usurp a monopoly on the interpretation of cultural history.

Writing in the *New York Times* Rothstein suggests that given its stated aim to maintain and perpetuate native American culture, the museum sets itself up as an "advocate not just for artefacts but also for the living creatures that once created them. Most museums invoke the past to give shape to the present, here the interests of the present will be used to shape the past." [164] This goal, argues Rothstein leads to a homogenisation of the differences between the diverse tribes represented there, and filters out the nuances and complexities of their traditions and cultural history, so that "the museum often ends up filtering away detail rather than displaying it, and minimising difference even while it claims to be exhibiting it."[165] This highlights the extent to which the sharp division between "external protections" and "internal restrictions" can become muddied in practice. The act of state protection is likely to impact upon the 'protected' in ways which might be highly problematic for liberals.

Protecting cultures as 'contexts of choice' furnishes the state with a dual responsibility which it may prove difficult to meet in practice. Firstly, it must empower cultural groups by providing measures to preserve a meaningful cultural heritage against the assimilationist pressure from wider society. Secondly it must empower individuals within these groups to exercise their capacity for autonomous agency, which may sometimes lead them to dispute elements of the dominant cultural interpretation. Kymlicka writes that a liberal society must work on the assumption that "revising one's ends is possible, and sometimes desirable, because

one's current ends are not always worthy of allegiance. A liberal society does not compel such questioning, but it does make it a genuine possibility."[166] But if societal cultures are the sole contexts within which the operation of individual autonomy is made meaningful, how can the autonomous individual come to regard this context as one option among others? A real dilemma emerges because, the same features which Kymlicka thinks make cultures worthy of protection, are those which make it resistant to being cast as optional.[167]

The two difficulties considered in detail above emerge as a consequence of the fact that analytic distinctions between 'external protections' and 'internal restrictions', 'structure' and 'content', or 'contexts of choice' and 'authentic heritages', do not translate well into the real-life contexts in which judgements are made. However, to attempt to make these judgements at all from the standpoint of context-transcendent standards of justice is still more problematic and illustrates the relatively small distance that Kymlicka has moved from Rawls. Though Kymlicka conceptualises 'the people' in a more substantive way than does Rawls, their role as the 'constituent power' is immediately eclipsed by their absorption into an ideal of the cultural nation. Little acknowledgement is given to the tense and ambivalent relationship between the constituent power and the constituted order that it founds. Instead the content of rights and the boundaries between private and public are fixed by an appeal to a context-transcendent ideal of justice.

Kymlicka's conception of multicultural citizenship attempts to exclude identity claims from the public sphere, by endorsing a theory of minority rights, which grants exceptional status to cultural groups in the form of constitutional protections.[168] Kymlicka continues to view the state as Rawls does, that is, as a framework for protecting individual rights against the potential injustices of majoritarian politics. In addition, as Rawls does, Kymlicka assumes that there is some privileged vantage point from which the basic principles that define this framework may be discerned. These norms are supposed to be neutral between competing world-views. However, Kymlicka's contention that individuals relate to their culture primarily as a 'context of choice' is as controversial as the alternative difference-blind approach, which in understanding culture and ethnicity as ascriptive identities, assumes that they are arbitrary from the point of view of justice. Not only does it exclude the manifold other ways in which

individuals might relate to their cultural heritage, it also must define the 'context' in which choice is made. In defining the kind of context that he thinks is most essential for the development and exercise of individual autonomy, Kymlicka makes a fairly explicit appeal to national cultures as having an overarching importance for the socialization of individuals. In a different way than does Rawls' principle of difference-blindness, Kymlicka places issues of culture and identity beyond democratic contestation.

Conclusion

In this chapter I have suggested that a prominent feature of the dominant approaches to constitutionalism has been their attempt to stabilize the constitutive moment of constitutional politics. In early models of constitutionalism this is evident in the appeal to a pre-political unity. For later approaches, the appeal is to some privileged standpoint beyond politics, which can ground consensus on legal norms and procedures. The persistence of these trends has led to sterile approaches to identity politics and multiculturalism within contemporary political thought. The challenges presented by identity related pluralism, should not be understood as arising from a contingent process by which the constitutional state was somehow hijacked by a homogenising and thereby exclusionary understanding of belonging. The new challenge of pluralism that contemporary societies face cannot readily be mapped onto a liberal schema, which has attempted to accommodate moral and religious pluralism, and various forms of social difference, within the context of relatively homogenous nation states, which could take for granted fixed value horizons and a broad social consensus.

It is not uncommon within the vast literature on multiculturalism to present the politics of difference purely as a problem for 'normal politics', or at least, to fail to acknowledge the extent to which the problem of difference is essentially constative for democratic politics. The tactic of construing difference politics as just another, albeit unfamiliar form of pluralism effectively domesticates the problem of difference, to a mode that can be accommodated within familiar models of constitutionalism, already equipped for dealing with moral and religious diversity. Recent versions of pluralism, which concentrate on identity related forms of difference, frequently present the challenge posed by different ways of life in analogous terms to moral pluralism and forms of structural disadvantage which are already familiar through class

politics.[169]

The politics of difference is also in a more fundamental sense, a problem for constitutional politics. Relatively few thinkers in modern times have wrestled seriously with the potential conflicts between popular sovereignty as a legitimating principle of democratic constitutionalism and the phenomenon of pluralism. This omission is to the detriment of debates about the politics of identity and culture which are too frequently focused primarily on rights and public policy. I want to suggest that instead, discussions about the politics of difference and cultural rights should be situated within broader debates about democratic legitimacy and the constitutional state. If popular sovereignty is to be understood as one of these legitimating ideals, it will be necessary to get a clearer sense of who 'we' are as a 'people', and as the inheritors of Western modernity within which modern constitutional traditions developed and became embedded. This is the ambitious task undertaken by Taylor, particularly in his *Sources of the Self.*

.

Chapter Two. Charles Taylor: *The Modern Identity*

Introduction

One of the abiding concerns of Taylor's work has been to comprehend the consequences of the great transformations in social and political life, and for the self-understanding of agents, ushered in by 'modernity'. Modernity, as Taylor defines it is,

> That historically unprecedented amalgam of new practices and institutional forms (science, technology, industrial production, urbanization), of new ways of living (individualism, secularisation, instrumental rationality); and new forms of malaise (alienation, meaninglessness, and a sense of impending social dissolution). *1*

He seeks to interrogate the rise of that historically novel and culturally specific formation which defines the modern West and informs our self-understanding, partly, with the intention of "mapping connections between senses of the self and moral visions."*2* Taylor contends that human beings live their lives in a reflective manner and evaluate their actions according to

moral standards. The self has an inescapably moral dimension in the broad sense of having an orientation to the good. This is precisely the dimension of modernity that contemporary moral philosophies have most trouble admitting, he thinks.[3]

Taylor attributes the distinctiveness of his own analysis of modernity to the fact that it develops a "cultural" approach in contrast to the more predominant "acultural" kinds of accounts.[4] Acultural theories describe the transition to modernity as a set of culture-neutral operations for which any particular culture might serve as 'input'.[5] The cultural approach, on the other hand, explains modernity not as the unfolding of some culture-neutral capacity, but as the rise of a new culture. It maintains that the transition to modernity can only be explained from an internalist perspective, that is, from a perspective that understands modernity as a distinctive culture with its own characteristic conceptions of the person, nature and the good.[6] Taylor's cultural approach to modernity takes the form of a retrieval of those features of it that have been most central for the development of modern self-understandings. This is the task undertaken most comprehensively in *Sources of the Self,* in which he attempts to give a clearer picture of the contours of modernity by offering an interpretative history of the modern self and its connectedness to 'moral sources'.

Taylor thinks that within the cultural horizon of modernity there is a great deal of consensus on moral imperatives such that we feel with particular force the demands of universal justice and claims for equality, as well as placing a high priority on the avoidance of death and suffering (SS 495). He acknowledges also that we take as axiomatic the basic good of self-rule as an irreducible component of political society, so much so, that "no other aspiration ultimately incompatible with it is avowable" (SS 396). Rifts begin to appear however, when we start to articulate the sources of these moral values, where "sources" are whatever inspires unwavering commitment to these values (SS 495). At this level, Taylor thinks, the battle-lines are bewildering, and one of the main aims of *Sources of the Self* is to throw these into sharper relief.

Some commentators have suggested that however sophisticated Taylor's cultural reconstructions may be; the political implications of the enterprise remain ambiguous.[7] My aim here then, is to explore those dimensions of Taylor's related conceptions of modernity and

morality that I consider as having an important bearing upon his more overtly political conception. I will structure this analysis around three of the main advantages that Taylor himself claims his cultural approach has over those acultural approaches that underwrite rights based liberalism. Focusing on these three purported advantages allows us to appreciate more fully what is unique about his political vision and the ways in which it is distinct from dominant procedural models of liberalism.

The first is to provide a finer grained analysis of modernity. Taylor's approach does not succumb to a pessimistic vision that equates modernity with decline, nor is it seduced by the sanguinity of optimists who regard modernity as a one-way route to progress, whether defined in terms of a growth in reason, technological capability, the transition to a secular outlook, or by some other criteria. In offering a more comprehensive portrait of the ethical horizons of modernity, Taylor thinks that his vision is better able to comprehend and affirm the plurality of goods that define modernity but are suppressed by the predominance of an ontologically disinterested liberalism. In Taylor's view, liberal approaches such as those of Rawls and Habermas, only really pay lip service to the idea of plural goods, failing to recognise the magnitude of the challenge that value pluralism presents to their accounts of procedural rationality.

Secondly, Taylor seeks to repudiate the 'naturalist temper', which he finds pervasive in modern culture. By naturalism, Taylor means "not just the view that man can be seen as part of nature – in one sense or another this would surely be accepted by everyone – but that the nature of which he is part is to be understood according to the canons which emerged in the seventeenth-century revolution in natural science."[8] While this view may no longer command explicit support it continues to sustain the widespread 'naturalist temper' that gives credence to the 'disengaged' conception of personhood, and to the pre-eminence of procedural models of reason within contemporary liberalism. Taylor develops an alternative conception of the self as embedded and engaged. He suggests that just as we describe a person's physical location by her position in the natural world, we cannot but appeal to moral horizons in order to describe a person's spiritual situation and moral motivations. He stipulates as a condition of undamaged personhood that the self is able to orient herself within a framework which defines this moral

topography. Since this is constitutive of human agency as such, it is not possible, on Taylor's view, to abstract from the ontological background defined by a framework in order to develop an apodictic morality that makes no substantive claims about the nature of the self or the good. In place of proceduralism, he affirms a substantive model of practical reason which involves comparing interpretations rather than appealing to criteria.

Thirdly, and finally, Taylor thinks that his alternative 'cultural' approach to modernity is better placed for making sense of 'alternative modernities' and for providing a satisfactory response to issues surrounding cultural diversity. Taylor makes room for a plurality of goods within modernity by recasting seemingly comprehensive and mutually exclusive theories of selfhood as disclosing different aspects of our historical-cultural development in the West. He also highlights the fact that moderns have come to acquire this complex multi-stranded identity through participation in different practices of government.[9] This enables the important acknowledgement that modernity will not be a uniform phenomenon, but will be shaped by cultural traditions and local practices. He seeks therefore to apply his model of practical reason not only to disputes within cultures between competing goods, but also to questions that involve cross-cultural evaluations. In the concluding section I consider briefly how far Taylor's attempt to return ontological considerations to the heart of a theory of selfhood and the good affords the advantages he claims for it, before highlighting some of the tensions that emerge from this account, and which carry over to his more specifically political approach.

1. A FINER GRAINED ANALYSIS OF MODERNITY

1. 1 Beyond optimist and pessimist approaches to modernity

Taylor regards modernity as a source of both greatness and danger. As compared to acultural approaches that comprehend modernity either in optimistic terms as 'the unfolding of capacities' or in pessimistic terms as 'falling prey to dangers', his approach to modernity is much more ambivalent. Neither the 'optimist' nor the 'pessimist' camp can comprehend the full range of moral experience that Taylor sets out to retrieve. He argues that though we are all deeply embedded in the cultural horizons of modernity, we consistently fail to capture its great

complexity in our attempts to articulate its meaning. This is in no small measure due to the predominance and influence of acultural approaches to modernity.

The paradigm case of an acultural theory of modernity would be one that understands it in terms of the growth of reason defined in various ways: for example "as the growth of scientific consciousness or the development of the secular outlook or the rise of instrumental rationality or an even clearer distinction between fact-finding and evaluation."[10] The assumption is that any and every culture can, and probably will, come to see that scientific thinking is valid, accept that religious faith involves unwarranted leaps, come to privilege instrumental rationality over deliberation about ultimate ends, or come to regard facts as separable from value.[11] No attention is paid to cultural and historical understandings of selfhood or the good, since modernization is understood as a series of culturally neutral operations, which will ultimately deliver every modernised culture to the same destination. These theories exclude the possibility that "Western modernity might be powered by its own positive vision of the good… … … rather than by the only viable set left after the old myths and legends have been exploded."[12]

Acultural accounts may offer a positive assessment of modernity by understanding these transitions as unqualified gains: a source of progress providing reasons for optimism. However, what acultural accounts, both optimistic and pessimistic, have in common is their emphasis on *processes* of modernization as the source of gain or loss. Both are equally insensitive to the role of culturally significant goods and values in making possible the transition to modernity, however defined. On negative accounts, cultural malaise is attributed to the loss of traditional forms of social integration in the wake of purportedly non-culturally specific processes and transformations, such as technological progress, industrialisation and secularisation. Attention centres on the idea of impending social breakdown brought about by, a loss of roots, a hubris about the boundaries of human advancement, a shallow culture geared towards trivial self-satisfactions, a decline in civic engagement and so on.

As we shall see in the following chapter, Taylor himself regards modernity as a source of various forms of malaise, such as alienation, misrecognition and fragmentation, but his treatment of modernity in *Sources of the Self* and *The Ethics of Authenticity* make clear that he is no pessimist[13]. In order to appreciate Taylor's own positive political approach, we must first

consider why he objects strongly to the way in which acultural theories typically define and respond to these malaises, and how he goes about clearing the way for an alternative approach. Firstly, he has some sympathy with the 'hypertrophy' thesis appealed to by pessimistic acultural accounts, according to which, the chief source of political breakdown is "our becoming too much of what we have been."[14] Specifically the fear is that "the very things which define our break with earlier "traditional" societies –our affirmation of freedom, equality, radical new beginnings, control over nature, democratic self-rule –will somehow be carried beyond feasible limits and will undo us."[15] On this view, it is precisely those qualities that define the break with earlier 'traditional societies', the affirmation of freedom, independence, equality and technological control over nature, that are typically regarded as the chief contributors to the sense of malaise. But he rejects acultural responses to the 'hypertrophy' phenomenon as overly simplistic. They rely on an externalist account of goods and values for their claims that we have gained 'too much' or 'too fast'. They tend to assume that societal breakdown is a crisis that might be averted through the recovery of tradition, or a slow-down in the pace of development.

In contrast, Taylor proposes to analyse the phenomenon of cultural malaise in rather different terms, drawing on an internalist approach to goods, one that takes into consideration what these goods mean for us. He proposes a 'finer-grained' analysis of modernity focusing not on the question of whether certain goods have outgrown their limits, but on whether these goods have been realised in an authentic form. Taylor's approach to modernity is therefore distinct from the approaches of both 'optimists' and 'pessimists' insofar as it aims to retrieve goods and values "in their integrity, as against the distortions and perversions that have developed in modern history."[16] An exercise in retrieval of this kind, which remains faithful to an internalist account of goods, clearly requires an historical treatment of the self and the good that can comprehend more fully the meaning that goods have for us in virtue of our distinctive self-definitions.

Taylor is interested, in particular, in the modern trend towards secularisation and the process by which this became a cultural option. He thinks it too simplistic to regard secularisation either as an inevitable consequence of features of the modern world, such as

industrialisation and the undermining of traditional forms of allegiance, or as an essential corollary of the spread of science and education (SS 310). Whereas an acultural approach would regard the distinctively modern phenomena of secularisation in terms of large-scale institutional changes in the modern world, or, the removal of blinkers, Taylor understands it in terms of the growing appeal of new moral sources that don't necessarily suppose a God (SS 313). The distinctive feature of modernity is then, on this view, the possibility of a plurality of moral sources. These moral sources emerge as fully distinct frontiers of exploration in the nineteenth century.

1.2 The modern self

A crucial first step in offering an articulation of the plural goods that define modernity is to provide an account of what distinguishes modern selves from premodern selves, for whom an entirely different range of goods and values had resonance. Taylor notices that one of the notable features of Western modernity is the unparalleled importance placed upon the individual. He suggests that this would be unthinkable without the progress to disenchantment wherein the world of magical forces and spirits is eclipsed, and the cosmos is no longer seen as the embodiment of a meaningful order, which can provide a possible object of attunement for us.[17] Taylor describes this progress towards disenchantment using the terms 'neutralising the cosmos' and 'the great disembedding'.[18] He suggests that a profound shift in consciousness accompanied this transition from a view that understands the cosmos as a providential order of Ideas, to a conception of the world as mechanism. [19] This shift in consciousness defines the modern identity in making available to individuals new forms of understanding and awareness. The defining feature of this modern consciousness is, for Taylor, radical reflexivity.

Taylor thinks that we can be confident that, on one level, human beings have always been able to take up a reflexive standpoint, though not a radically reflexive one. He thinks that even cultures remote in time are likely to have had some sense of self, a sense of 'me' and 'mine'. He offers the wry example of a Palaeolithic hunting group in circumstances in which a hunting expedition goes awry, and hunter A experiences a sense of relief as well as anguish when the mammoth attacks hunter B instead of him. Taylor's point is that there is a continuity between premodern and modern understandings of the self, a continuity that can be

expressed, in this particular instance, in the idea "here is one person, and there is another, and which one survives/flourishes depends on which person/ body is run over by that mammoth" (SS 113). However this continuity is limited to a basic capacity for reflexivity, which allows an individual to focus on himself as a being distinct from other selves. At this basic level it is tied to a conception of bodily integrity and cannot yet be interpreted as 'radical'. To be radically reflexive is, Taylor suggests, a uniquely modern phenomenon.[20] It means that I am able to understand my own subjective experiences as being 'mine', but requires additionally that I am able to examine that experience and scrutinise my own thinking.[21]

In *Sources of the Self,* Taylor argues that St. Augustine is the Western progenitor of this tradition of radical reflexivity, which has lead us to make a "big thing of the first-person stand-point" (SS 131). Augustine argued that the turn inward was our principal route to God (SS 129, 134). This marks the beginning of the influential epistemological tradition of modern thought, in which Descartes plays a key role by shifting the centre of gravity from God to the human capacity for self-sufficient reason (SS 157). While the idea of radical reflexivity undergoes many subsequent revisions and re-articulations, at its root is the idea that the external world is not simply 'out there' to be discovered, but is there, essentially, 'for us'. That is, our mode of access to external reality is as beings that experience and understand it from the first person standpoint. This tendency to "think of our thoughts, ideas or feelings as being "within" us, while the objects in the world which these mental states bear are "without" (SS 111), is strange and without precedent in other cultures and times (SS 114). Taylor is suggesting that although we tend to understand this interiority as a ubiquitous feature of the human condition, this 'inward turn' is in fact a specifically modern mode of self-understanding.

1.3 Romantic expressivism and disengaged reason

The modern turn 'inward' which makes radical reflexivity possible also inaugurates two distinctive cultural horizons, those of 'disengaged reason' and 'Romantic expressivism'. These develop alongside, but do not entirely displace theism as the ultimate grounding for the moral and political commitments of contemporaries (SS 319). All three constellations, the original theistic one and the two secular alternatives, define the tripartite map of moral sources that ground agreed upon moral standards (SS 410, 495). However, Taylor also suggests that the

tentative and exploratory nature of the two secular outlooks make it more appropriate to think of them in terms of 'frontiers' than fully adequate moral sources capable of firmly fastening the ideals that we erect upon them. (SS 317). These frontiers are not only inherently contestable and open to continual scrutiny, they are also often in conflict with one another, and it is to understanding the roots of this conflict, and its implications for the modern identity, that Taylor has devoted considerable attention ever since his early analysis of Hegel.[22]

Descartes and Locke lay the foundation stones for the first frontier of 'disengaged reason'. Though these thinkers retain an affinity with the original theistic moral source, they make possible the growth of a non-theistic morality based upon the idea of an essentially human dignity rooted in the distinctively human power of a self-sufficient rationality. This view achieves definitive expression in what Taylor describes as Locke's conception of the 'punctual self' (SS 171). Gary Gutting usefully clarifies what Taylor has in mind here. The 'punctual self' is "the self withdrawn from every substantive assumption, the purely formal locus of inquiry that rigorously excludes any unexamined cognitive content, the intellectual equivalent of a point. The point consists simply of a consciousness scrutinising its experience."[23] This idea serves to effectively sever the individual from his material embeddedness and makes plausible a conception of human agency that emphasises the idea of rational mastery and control over the external environment.

The triumph of disengaged reason is though, only one side of the early history of modernity, which has had an enduring impact upon modern self-understandings, but is in tension with an alternative conception of individuality. Montaigne is the progenitor of the second frontier of Romantic expressivism, since he begins to elaborate an ideal of self-exploration. On this view, we become aware of the significance of the providential order, not through disengaging from our material embodiment, but precisely through attunement to our own inner nature. Taylor argues that these ideas offer radically different stances towards the self in modern times. "The post-Cartesian ideal of clear, self-responsible thinking is the source of one set of disciplines of reflexivity, one in which the subject disengages himself or herself from embodied social thinking, from prejudices and authority, and is able to think for himself or herself in a disengaged fashion. At the same time the post- Romantic ideal of self-sounding and

self-expression has launched us in another whole range of practices of reflexivity, which bring into play the creative imagination."[24] He suggests that "These two facets of modern individuality have been at odds up to this day" (SS 182).

These two moral frontiers, made possible by the inward turn, are deepened by a second historical development which Taylor refers to as the 'affirmation of ordinary life' (SS 211). This idea has Judeo-Christian roots in its wholehearted affirmation of personal commitment as the only route to salvation. Furthermore the worth of this personal commitment "turns on the *spirit* in which one lives whatever one lives, even the most mundane existence" (SS 224). Its worth is not dependent upon the commitment being to a life marked out as higher or worthy in virtue of the kind of activity it realises, such as contemplation, monastic vocation or virtuous citizenship.

The affirmation of ordinary life transforms the significance of the 'inward turn' since it sunders individuals from a world of ontic logic even more completely, so that "the nature of the thing… … is now seen as within it in a new sense" (SS 287). The emphasis placed on benevolent sentiments as a touchstone of the morally good is one example of the extent to which the centre of gravity of modern thought moves from a cosmic order of divine providence to the domain of individual consciousness. The roots of the affirmation of ordinary life in a theistic ethic can be discovered by turning to the thought of Deists, such as Hutcheson and Shaftesbury. For these thinkers the good can be discovered by turning within, in particular by being cognizant of our sentiments and inclinations since these are attuned to the cosmological correspondences inscribed within a providential order. However, despite its roots in the original theistic ethic, these ideas open up the possibility of "another independent ethic, in which nature will become the prime moral source without its author" (SS 315). This is the ethic circumscribed by the frontier of Romantic expressivism. Taylor considers Rousseau to be an important figure in the transition which allows the severance of this ethic from its original theistic grounding through declaring full moral competence for this inner voice. However Taylor also thinks that to cut completely loose from this theistic yoke would require the advancement of a much more subjectivist position than Rousseau was prepared to endorse, one that allowed the inner voice and sentiments to define, rather than discover, the good.

In one sense, Taylor finds the frontiers of disengaged reason and Romantic expressivism to be complementary since they each push in the same direction in the sense of intensifying the sense of inwardness and the internalisation of modern sources (SS 390). In this sense, both may edge toward the kind of subjectivism that defines moral values by focusing exclusively on the basis of the powers and feelings of individuals.[25] This subjectivism is only reinforced by the experience of moral diversity, which makes agreement on moral issues ever more difficult. In another way however, the very existence of powers of disengaged reason and Romantic expressivism are, as has been said, in deep tension, and this has been one of the defining features of modern culture for Taylor (SS 319). The tension is experienced as such by the individual who positively affirms both of these sources (SS 390). The ideal of disengaged reason requires that individuals disengage from their own nature and feelings, whereas the power of creative imagination emphasised by romantic expressivism renders this stance impossible. According to Taylor then, the plurality of moral sources "both greatly complicates and enriches the modern predicament" (SS 390). This has consequences at both the experiential and at the public levels.

At the experiential level the tensions emerge between the view pre-eminent not only within modern philosophy, but also, within the broader range Western civilisation that leads us to understand ourselves as disengaged thinkers, and the Romantic protest which maintains that to understand ourselves expressively requires that we see ourselves as part of a larger order.[26] Taylor thinks that something like the premodern view of the self as a constituent of an all embracing cosmological unity, which finds expression within Romantic expressivism, continues to inform our self-understanding in important ways. That is, a meaningful identity, one that is not trivial or shallow, is generated by our attributing significance to an encompassing order outside of the self and its solitary existence.

At the public level, the Romantic protest against disengaged reason and the instrumental mode of life has continued salience in its central claim that modern society is alienating for individuals since it is expressively dead. He suggests that agents 'liberated' from an order of cosmic significance face emptiness as a consequence of being unable to find any significant purposes outside of themselves. This encourages a kind of shallowness and also

engenders division and fragmentation since "the atomistic focus of our individual goals dissolves community and divides us from each other" (SS 500-501). The idea of society as a community united by shared understandings is replaced by an idea of society as "a common enterprise of production, exchange and, ideally, mutual help, designed to fulfil their respective desires; so that the important virtues of society are rational organisation, distributive justice and the safeguarding of individual independence."[27] As we shall see in section two of this chapter, this model of society is dependent upon a certain conception of the disengaged self. From this 'atomist' perspective, the self comes to be seen as capable of adopting an instrumental attitude to the world.

Taylor argues that expressivist protests against this atomist political outlook have been an important motor for various political movements historically. He states, for example that, "Deep expressivist dissatisfaction contributed to the success of Fascism, and underlies the revolt of many young people against the 'system' in contemporary Western countries."[28] It has also inspired, he thinks, the modern ecological movement with its vision of the human environment as a repository of meaning and value, which holds a deep resonance for the human spirit and can inspire affiliations that have depth in time and commitment. On this view, ecological problems are not viewed primarily as technical questions that require solutions, but as a call to rethink our relationship to the world around us.

Other political visions inspired by romantic expressivism include, Taylor thinks, Marxism, civic republicanism and modern nationalism. Each of these standpoints questions the resources available to instrumentalist approaches to political life to make good the modern commitment to self-rule. As we shall see in the following chapter, Taylor's own specifically political writings have centred largely upon how the good of citizen self-rule can be made meaningful within liberal democratic states. On his own testimony, this is the central political good that he has written most about, and would most like to have furthered in political action.[29]

Marxism focuses its critique on the capitalist economic system and the inequalities of wealth and power that have their roots in this system and make a mockery of political equality and democratic self-rule. Liberals with civic republican sympathies, such as Mill and Tocqueville advance the idea that instrumentalism in political life undermines convergence on common

purposes, so eroding important values such as civic engagement and public freedom which make the good of self-rule meaningful (SS 414, 502, 505). Taylor suggests that civic republicanism draws upon romantic expressivism in its insistence that "a society of self-fulfillers, whose affiliations are more and more seen as revocable, cannot sustain the strong identification with the political community which public freedom needs" (SS 508).

Another "extremely important way in which expressivism has shaped our world", according to Taylor, is through the modern politics of nationalism (SS 414, 416). In order to offer a comprehensive account of the modern phenomena of nationalism, we would, Taylor thinks, need to take into account the functional requirements of modern societies which had cut loose from hierarchical forms of social organisation in the name of an aspiration to self-sovereignty.[30] Nationalism, Taylor thinks, develops from Rousseau's attempt to find a genuinely non-instrumental basis for citizenship. As we saw in chapter one, Rousseau takes on board the idea that political relationships are conventional. They cannot be defined by explicit appeal to a providential order, but must instantiate the autonomous will of the 'people'. Rousseau maintains that self-sovereignty must be attached to some conception of the 'people' if political decisions are to be accepted as binding. Taylor claims that nationalism isolates the historical cultural nation as a locus for this unity of a people.

These functional and sociological preconditions notwithstanding, Taylor locates the spiritual roots of nationalism in Herder's conception of a *Volk* where this designates the idea that "each people has its own original way of being, thinking, and feeling, to which it ought to be true; that each has a right and a duty to realize its own way and not to have an alien one imposed upon it" (SS 415). On this view it is necessary to define the people according to some constitutive essence-defining role which makes sense of their cohesion as a people, as opposed to an aggregation of individuals, but does not appeal to the old idea of a natural order. Taylor thinks that we can properly speak of nationalism when the source of this cohesion is attributed to "some ethnic, linguistic, cultural or religious identity that exists independent of the polity."[31] However, he suggests that "Language is the obvious basis for a theory of nationalism founded on the expressivist notion of the special character of each people" (SS 415).

Taylor is arguing that despite the obscene abuses of the doctrine of nationalism

witnessed in the politics of nationalist aggrandizement and ethnic chauvinism, another tradition of nationalism provides a more authentic realisation of the ideal which has deep roots in the modern identity, and can be politically complementary for rights based liberalism. As we shall see in the following chapter, one of Taylor's main objectives is to provide a political model that can unite an Enlightenment inspired commitment to rights based liberalism grounded in an ideal of autonomy, with the Romantic commitment to cultural and linguistic nationalism, and its vocabulary of authentic self-expression. As we have seen the potential for conflict between these ideas has been one of the central foci of Taylor's thought, and the difficult task of providing a theoretical reconciliation between them is an important inspiration for Taylor's celebrated essay *Multiculturalism and the Politics of Recognition.* However there is little acknowledgement within Taylor's political thought of the potential for conflict between the ideal of cultural and linguistic nationalism that Taylor affirms and his commitment to civic republican ideals, which he espouses equally vehemently. It is not necessary to go into the details of this tension here, but it may be useful to acknowledge at this point Taylor's conviction that these two ideals stem from the same moral source, Romantic expressivism. This may be one of the crucial factors that leads him to underplay the potential for conflict between them. As we saw in chapter one, Rousseau's romanticized account of self-rule, which conceptualises 'the people' as an already integrated macrosubject is only one understanding of this idea. Moreover, it is a deeply problematic one.

2. REPUDIATING THE NATURALIST TEMPER

Taylor's analysis of the goods and values that define the modern identity is complex and comprehensive and does not lend itself readily to précis. The foregoing account focused primarily on Taylor's account of the tension between disengaged reason and romantic expressivism. This tension was singled out for detailed consideration since it has been one of the most enduring themes of Taylor's work. More importantly still, it feeds into his account of cultural recognition and has significant implications for his approach to democratic politics more broadly, a point which I have touched on only briefly in the foregoing, but will be considered in more detail in the following chapter. Ultimately though, this tension is one of several that

Taylor alludes to in his wide-ranging survey of identity and the good. Despite its comprehensiveness and complexity, Taylor does not wish to claim that his historical survey offers a definitive account of the modern identity, nor a complete picture of the full range of available goods and values. He acknowledges that his account is inexhaustive and 'overly schematic'.

While it would be accurate to say that Taylor's approach to moral questions is ultimately tentative and exploratory, its challenge to rival procedural accounts of morality is robust. In order to appreciate the nature and scale of this challenge it is essential to examine in some detail Taylor's philosophical anthropology. However partial, the historical approach and its examination of the values and self-understandings that have defined the modern Western identity, can, he thinks, cast light on those features human life that are genuinely universal and perennial.[32] The historical account thus supports his more basic thesis that "we cannot understand ourselves, or each other, cannot make sense of our lives or determine what to do, without a richer ontology than naturalism allows."[33] However, Taylor also offers an independent account of those features of human agency that he takes to be perennial by way of a sustained engagement with ontological questions, which he argues have been neglected by social and political theory. This kind of approach is developed in the opening chapters of *Sources of the Self* and in a number of influential essays published previously. He makes claims about selfhood that are supposed to apply to human agents universally rather than to human agents considered within a specific historical-cultural context.[34] It is on the basis of this analysis of human agency that Taylor attempts to highlight the deep inconsistencies at the heart of naturalism and formalist approaches to ethics.

2.1 Self-interpretations

Taylor thinks that moderns, seduced by the success of scientific models of explanation for providing reliable knowledge of the universe, have attempted to apply these models of explanation to contexts of human action and social life. One of the consequences of these developments is a deeply confused conception of the self. He offers his own historical analysis of selfhood and the good as an alternative to naturalist approaches which, due to their reliance on the scientific paradigm of knowledge, attempt to bypass subjectivity in their accounts of

human personhood. If the self is to be amenable to models of explanation developed within the context of the natural sciences, the human person must be conceived as a self-contained unit of analysis existing independently of the concepts used to describe it.

These accounts conceive of man and nature as part of an undifferentiated unity with mechanistic laws being applicable to each in equal measure. Taylor thinks that the extremes of the position that attempts to apply the exceptionless laws of the universe to the feelings and sensations of man are represented in computer models of the mind. He claims that these appear plausible to lay people in the modern world precisely because of the prevalence of the naturalist world-view.[35] On Taylor's view however, we cannot approach our personhood in the same way that we approach our organic being. Having an identity is not akin to having an arm, or a liver, or even a brain.[36] Rather, "To have an identity is to know "where you're coming from" when it comes to questions of value, or issues of importance."[37] To have an identity is to define oneself in moral space. Taylor develops a sophisticated philosophical anthropology, which centres on the idea of human beings as self-interpreting animals whose self-interpretations are constitutive of their identity. As self-interpreting animals, human beings are not susceptible to absolute descriptions, for there is no such thing as the structure of meanings that exist independently of their interpretation of themselves.[38] Rather, "What I am as a self, my identity, is essentially defined by the way things have significance for me." (SS 34)

The precept that man is a self-interpreting animal violates the paradigm of clarity and objectivity which is influential in modern thought and culture whereby it is assumed that "thinking clearly about something, with a view to arriving at the truth about it, requires that we think of it objectively, that is as an object among other objects."[39] The dominant trend within modern philosophy has been to assume that genuine knowledge is achieved by abstracting from the meaning and significance that things have for us, and that objectivity and genuine knowledge rests on the adoption of a third person standpoint. This idea reaches its apotheosis with Locke's conception of the punctual agent from which the last vestiges of subjectivity seem to have been removed, but also carries over into behaviourist approaches to the human social sciences which attempt to offer explanations about human agents relying exclusively on 'brute facts' based on observable behaviour rather than on the self-understandings of agents.

2.2 Background and language

A significant theme in modern philosophy has been the assumption that genuine knowledge is attained by abstracting from the meaning and significance that things have for us, and that objectivity and genuine knowledge rests on the adoption of a third person standpoint. There is a deep paradox involved in these approaches to the human sciences, according to Taylor, since the disengaged standpoint is entirely dependent upon the significance given to the first person perspective in the modern world. As we have seen the ability of human agents to adopt a radically reflexive standpoint is consequent upon this. As Taylor puts it, "Radical objectivity is only intelligible and accessible through radical subjectivity" (SS 176).

Taylor turns to theorists such as Merleau Ponty, Heidegger and Wittgenstein who responded to this paradox by developing an alternative approach to human agency which emphasises its finite and engaged character.[40] These theorists provide Taylor with an opportunity to develop a critical purchase upon the epistemological bias that has permeated Western thought, radically sundering subject and object, and making access to the world appear as the foremost issue for philosophical scrutiny. Once the self is conceived as essentially engaged and embedded, access to the world no longer appears problematic as it does on the Cartesian view.

In a striking formulation of his critique of Descartes dualism and the corresponding epistemological standpoint, Heidegger asserts that "the perceiving of what is known is not a process of returning with one's booty to the 'cabinet' of consciousness after one has gone out and grasped it."[41] In opposition to this view, he argues that consciousness in nothing apart from its 'directedness' so that the world shows up in relation to the central purposes of the agent such that our understandings of ourselves and of the world are interconnected. This means that human knowledge is partly conditioned by a non-thematizable background which serves as a context for action. Taylor suggests that the ideas of engaged agency and background in Heidegger's thought are crucial for taking us outside of traditional epistemology.[42] He therefore develops his own formulation of these ideas.

Taylor's account of background draws upon the Heideggerian idea that our pre-conceptual understanding of things, that is our understanding of things as they show up within

a context of significance as defined by our purposes and language, is prior to theoretical cognition. Hence,

> [Background] is that of which I am not simply unaware (as I am unaware of what is now happening on the other side of the moon), because it makes intelligible what I am uncontestably aware of; but at the same time I cannot be said to be explicitly or focally aware of it, because that status is already occupied by what is making it intelligible.[43]

Background then, functions as something like a pre-conceptual know-how, but this does not mean that it must be perennially and wholly inaccessible to our conscious awareness. While is impossible to be fully clairvoyant about the background that provides the context for action, this background is, at the same time, an essential requirement for rendering agency meaningful. It provides the tacit conditions of knowledge that we can formulate in propositional terms.[44]

It is possible, in Taylor's view, to gain purchase on this background from an internalist standpoint, which reconstructs from the point of view of the agent, the way in which background renders specific emotions, actions and evaluations meaningful.[45] Bringing a portion of this background into our conscious awareness through articulation trades on my familiarity with that which is implicit within it, but does not thereby undo background as a condition for action. All action brings into being a background, which is required to make that action intelligible, and the act of articulating this implicit know-how is no exception.[46]

This idea of background is usefully elaborated by Taylor's conception of persons as language-users. Taylor rejects the idea that language can be understood simply as a medium for representing an external reality. This 'instrumental' or 'enframing' view of language is, he suggests, linked to the modern epistemological standpoint in attempting to depict the objects of the external world in majestic independence of my experience of them. Taylor adopts an alternative 'expressive' or 'constitutive' account of language, according to which concepts are embedded within a reflexive language of related and contrasting concepts, which part describe and part constitute our reality. On this view, words have meaning through their ability to describe and relate the range of subjective experience, which takes shape within a particular semantic field. Here Taylor indicates his debt to Wittgenstein who appeals to something akin to the Heideggerian idea of pre-understanding in developing his theory of language. Wittgenstein maintains that the aspects of things that are most important to us are obscured precisely as a

result of their simplicity and familiarity.[47] He applies this insight to the field of semantic meaning by illustrating what has to be supposed as already understood when we try to define or name something.[48]

Taylor uses the concept of shame to highlight the point that concepts and ideas are related in such a way that language-users can only make sense of particular experiences through their having an implicit grasp of a range of related and contrasting concepts. On one level, an emotion like shame provokes a certain kind of response, such as 'hiding oneself', 'covering up' or 'wiping out the blot'.[49] But our determination of what constitutes a shameful situation depends upon our experience of it as shameful, and on other related concepts such as self-reproach or humiliation.[50] This depends not just on our having a common language which allows us to identify objects with signifiers, it also requires that we are inducted into an ambit of common meanings which allows us to draw upon a range of concepts to identify and describe our experience. To understand a concept such as shame we must also understand the experience of being shamed, and the experience is partly defined by our induction into a language of common meanings which allows us to define a situation as shameful and identify a certain kind of disposition as 'shame'. There is no way to stem the hermeneutic circle here as long as we look upon human behaviour as action carried out against a background of desire, feeling and emotion.[51] There is no way to define concepts and experiences in isolated non-relational terms. Language is therefore an example of a background that is the non-thematizable context within which experience becomes meaningful for us.

The idea of background is not only a doctrine, according to Taylor; it is also an argumentative strategy.[52] Through a process of articulation and retrieval, Taylor hopes to foreground those neglected dimensions of human existence that are frequently overlooked by mainstream liberalism, in particular those that draw on intersubjective meanings and common purposes, such as, language, culture, and community, and that have been sidelined by naturalism. However, in appealing to this notion of background, Taylor also aligns himself with an argumentative strategy that goes beyond polemic. He seeks to follow in what he takes to be an important tradition in modern philosophy in appealing to background as a 'transcendental condition' of human agency.

Taylor asserts that Kant was the pioneer of this kind of argumentative strategy, which he terms 'transcendental deduction'.[53] A transcendental argument attempts to move from existential features of human life to deeper ontological truths. Taylor hopes that by bringing to light the background conditions that are requisite to any recognisable account of human experience, he can throw light on the transcendental conditions of human action. Insofar as these conditions cannot fit within the limits that the disengaged view prescribes, these accounts are, Taylor thinks, shown to be untenable since they cannot make sense of the background which they must themselves presuppose.

2.3 Frameworks

An essential element of this background, on Taylor's view, is the existence of frameworks that map out a space of inescapable questions that any moral outlook is required to provide some kind of response to. His charge against representative naturalist views is that they fail to acknowledge their own fundamental commitments as contestable responses to these inescapable questions. Rather, they present their fundamental commitments as though they have context transcendent validity. Initially, Taylor alludes to frameworks as structures that underlie our moral reactions and intuitions. However, as has been made clear with the example of shame, the language that we appeal to in order to understand and describe our desires, feelings and emotions is also dependent upon the meaning that things have for us. They are not purely visceral responses that require no further elucidation. It is on the basis of the same kind of considerations that Taylor argues that our moral responses have two facets. On the one hand they are instinctual and in this aspect they seem comparable to tastes, and aversions. From another side however, these reactions seem to stem from a deeper source, from an ontology of the human, which can ground moral responses in a reality beyond my subjective experience.

Taylor suggests that while in the case of moral responses it is possible to raise meaningful questions about whether or not a given reaction is warranted, this is not so in the case of tastes and aversions. While your aversion to marmite may be incomprehensible to me, it would not make sense for me to attempt to convince you that some essential property of marmite actually *merited* your appreciation. Disagreements on matters of taste have the status

of brute facts that do not admit of rational adjudication. Moral claims, on the other hand, have a quite different status. They are "our mode of access to the world in which ontological claims are discernable and can be rationally argued about and sifted' (SS 8). Hence disagreements over moral issues, Taylor claims, "have these two sides: that they are not only 'gut' feelings but also implicit acknowledgements of claims concerning their objects" (SS 7). Hence, in the case of a moral disagreement, over abortion for example, it would make sense to argue and reason about what, and who, is a fit object of moral respect.

Taylor's claim is that though we rely upon a moral ontology to make sense of moral responses, this ontological background is for the most part ignored or conscientiously neglected by contemporary moral theory. He suggests several reasons for this. The first is that people are unlikely to be reflective about the ontological framework that is implicit in their moral outlook until it is challenged in some fundamental way, forcing them to defend their deepest spiritual commitments. It is important to note here that not every kind of moral disagreement would encourage reflection about fundamental ontological commitments. Some ostensibly *moral* disagreements may turn out in fact to be technical disputes about the most effective means for achieving agreed upon moral ends. Or, they may turn on special pleading. A supporter of capital punishment may claim to share our commitment to respect human life, but argue that some crimes, such as murder, remove the injunction to think on the perpetrator as 'human' in the relevant sense. Strong incentives to explore deep questions of ontology surface only in exceptional circumstances, such as over the abortion issue, where fundamental questions of moral ontology such as whether this has a theistic or a secular grounding, are raised (SS 9).

This unreflective commitment to basic standards of morality and human rights is not the only reason for the suppression of moral ontology among contemporaries according to Taylor. He suggests two further reasons. The first of these is that there is a strong motivation to deny the relevance of ontological considerations. This is partly because "the pluralist nature of modern society makes it easier to live that way", but it is also an indication of the extent to which the naturalist temper is pervasive within modern culture (SS 20). He suggests that the naturalist attempt to understand the person in terms of a model borrowed from the natural sciences makes it a prerequisite of attaining objective knowledge that we abstract from

subjective experience. Yet, on Taylor's account, it is precisely the subjective experience of desires and aversions, honour and shame and so on, which provides the first point of access to the background of action and to deeper ontological truths.

The second additional point that Taylor offers as a reason for the difficulty in articulating a moral ontology is "the tentative, searching and uncertain nature of our modern beliefs" (SS 10). This Taylor thinks, is a peculiarly modern phenomenon, which has to do with the specific nature of the responses that we moderns have offered to those inescapable questions that determine the basic structure of frameworks. Hence, while moderns acknowledge that some concept of respect for persons is an implicit component of their moral commitments, they cannot subscribe with complete conviction to any particular definition, still less indicate whether this is grounded in a theistic or secular ontology (SS 10). Taylor writes, "Our forbears were generally unruffled in their belief, because the sources they could envisage made unbelief incredible. The big thing that has happened since is the opening of other possible sources" (SS 313). Not only does this seal off the recourse to a single unshakeable theistic grounding by introducing alternative moral sources, but also this situation is complicated by the fact that the independent moral sources of 'disengaged reason' and 'romantic expressivism' are often in tension with one another as we have seen.

Taylor suggests that despite these pressures that push toward inarticulacy, we cannot abstract from questions of moral ontology if we are to provide for an adequate account of modernity. He suggests that just as we must develop a sense of orientation as agents operating within a spatial field, so too must we develop a sense of ourselves within the background provided by moral constellations. Taylor uses the metaphor of frameworks and horizons seemingly interchangeably, but the point about both is that they orient people in moral space[54]. Perhaps fortuitously, given the comparison of moral with spatial dimensions, frameworks turn out to have three axes which Taylor delineates as, respect for persons, notions of what constitutes a worthwhile life and our sense of our own dignity as human beings. Taylor wants to defend the 'strong thesis' that "doing without frameworks is utterly impossible for us" (SS 27). He draws on a form of transcendental argument to claim that frameworks are a non-rescindable condition of any phenomenologically adequate account of

human agency.

Reflecting upon what distinctive capacities belong to humans *qua* humans, he detects, that it "is the power to *evaluate* our desires, to regard some as desirable and others [as] undesirable."[55] Taylor regards strong evaluation as an inescapable dimension of a fully human life.[56] The strong evaluator is distinguished from the 'simple-weigher' by having recourse to a language of qualitative contrast. Unlike the simple-weigher, the strong evaluator does not make a decision based upon the immediacy of desire or calculations about consequences, but has recourse to a language that can express the superiority of some options relative to others. In ranking various goods a strong evaluator will necessarily make reference to the kind of beings we are or want to be.[57] Hence strong evaluation is constitutive of identity. In fact, Taylor goes so far as to say that "our identity is *defined* by our fundamental evaluations"[58] (emphasis added). He suggests that the qualitative discriminations which we make as 'strong evaluators' are incorporated into frameworks which define the background picture of the moral and spiritual predicament of our culture. Hence "not to have a framework is to fall into a life which is spiritually senseless" (SS 18).

Although frameworks are in themselves an indispensable pre-condition for meaningful human agency on Taylor's account, the precise constellation of values that a given framework embodies or gives priority to, vary significantly from culture to culture. Thus although "Humans always have a sense of self which situates them in ethical space... ...the terms that define this space and that situate us within it, vary in striking fashion. As we look through history, even at cultures more or less familiar to us, we can see a range of ethical spaces that are so different as to be incommensurable."[59] The three axes of respect for persons, notions of what constitutes a worthwhile life and our sense of our own dignity as human beings, are understood and weighted differently by different cultures in their efforts to define moral obligations. Taylor gives the example of the warrior ethic of Ancient Greece, which prioritised the second axis and regarded the preservation of honour and dignity as the main constituents of a worthwhile life. The axis about respect for persons would be seen as least important. In contrast, modern frameworks tend to prioritise the first axis of respect for persons and devalue the other two. Since defining the content of the good life has become highly problematic, we no longer fear

condemnation for failing to live up to the ideas of the good life as the Ancient Greeks did. Instead we worry about finding an ideal such as this to live up to, we fear above all else, meaninglessness. This is one of *the* defining features of our age according to Taylor (SS 18).

The devaluation of the second axis of what constitutes a worthwhile life in contemporary circumstances, is not only a response to the pluralisation of moral sources and the difficulties that this raises for comprehensive ethical outlooks, it is also a consequence of the positive embrace of that distinctive ideal in modern culture which has already been touched on, the affirmation of everyday life. Rather than venerating higher ideals, moderns tend to locate the source of meaning that defines a worthwhile life in the activities of labour, production, marriage and the family (SS 215). This means that we seek meaning in the 'ordinary' activities of work and family: spheres of life that were regarded as inferior on the terms of the Ancient Greek warrior ethic. The definitive idea of the affirmation of ordinary life is that "the higher is to be found not outside but as a *manner of living* ordinary life" (SS 23). In modern culture this is often taken for granted or evaluated negatively as the decline of the dignity attached to the life of 'action' lived in public space among one's peers[60]. However Taylor wants to drive home the point that the affirmation of ordinary life is a peculiarly modern phenomenon and is in fact "one of the most powerful ideas in modern civilisation." (SS 14) It is a positive ethic which engenders "suspicion of the claims made on behalf of 'higher' modes of life against the 'ordinary' goals and activities that humans engage in" (SS 81, 215).

Hence, Taylor uses the concept of frameworks to tease out the goods that we value but often fail to articulate as goods. This also serves to re-instate the importance of questions about the good life and contest the idea that the moral is distinct and separable from the ethical. He contests the idea that we can separate out the first axis of respect for persons and determine universal maxims of justice without making reference to what human dignity consists in nor what constitutes a worthwhile life. He asserts that "To understand our moral world we have to see not only what ideas and pictures underlie our sense of respect for others but also those which underpin our notions of a full life" (SS 14).[61]

Hence, Taylor uses the idea of frameworks, in part to enlarge the range of that which can figure in legitimate moral descriptions and in particular, to restore traditional ethical

questions concerning the nature of the good life to a central place in moral theory. He seeks to reverse the tendency in modernity to focus exclusively upon one of these three essential axis. In order to get some purchase on the political significance of Taylor's project here, it is useful to consider what he has to say on the question of rights.

Taylor suggests that the replacement of the idea of 'natural law' with a new vocabulary of 'natural rights' during the seventeenth century, while making few changes in terms of what was prohibited from the moral point of view, actually marked something of a revolution in terms of the way in which the principle of respect for persons is framed by modern frameworks. The important difference lies, for Taylor, "not in what is forbidden, but in the place of the subject" (SS 11).[62] As subjective rights replace immunities accorded by natural law, the active concurrence of the agent in establishing and enforcing this immunity becomes important (SS 11).[63] On this account, "rights are not just claims about how agents must respect a pre-given moral order, but about how subjective agency itself must be respected."[64] In particular, it connects up the axis of human dignity with the ideal of autonomy since the notion of a subjective rights rests on a conception of the human agent as complicit in securing the respect that is due him. This conception of autonomy expands under the influence of the post-Romantic conception of authenticity, Taylor thinks, which calls upon each to develop his own original way of being.[65]

Taylor's point is that the dominant juridical political perspectives attempt to suggest that subjective rights can form the bedrock of citizenship quite independently of ideas about what constitutes a worthwhile life and what human dignity consists in. They cling to a strict separation between the right and the good and privilege the former over the latter. Taylor acknowledges the appeal of these approaches, which aim to insulate the strong commitment to rights from the instability and fragility of modern frameworks. However, he thinks that a serious price is exacted by confining languages of higher worth, which in modern conditions are tentative and exploratory, to the private realm. For example, no consideration can be given to the way in which our conceptions of what make humans worthy of respect not only shape schedules of rights, but also can sustain a sense of moral commitment to these same rights.

2.4 The self in moral space

So far, I have been discussing Taylor's suggestion that all civilisations have appealed to frameworks that frame the three distinct dimensions of moral existence concerned with our notions of the good life, human dignity, and respect for persons. Taylor's suggestion is that although in contemporary life, the axis of respect for persons appears to take precedence over the other two dimensions in discussions of morality and politics, this strict separation of morality and ethics is in fact unfeasible. On Taylor's view each of these three axes are interconnected and inextricably tied to a framework which provides the implicit scaffold for the constellation of values that define a given civilisation. Furthermore, frameworks map out the terrain to which human agents must refer if they are to give meaning and narrative content to their lives. It is against this background that we evaluate our motives and desires and attempt to give shape to our lives and tell a meaningful story about ourselves.

Taylor suggests that it is as agents capable of making qualitative discriminations that we situate ourselves within a space of moral questions. He argues that these moral questions pre-exist for us as human agents in precisely the same way that spatial dimensions pre-exist corporeal beings (SS 31). The idea that we could either invent qualitative distinctions, or do without them entirely, is as spurious as is the idea that we invent or could renounce our conception of ourselves as existing in space. On the basis of his claim that we can only recognise as a fully human life one that incorporates strong qualitative discriminations, Taylor claims to have provided not only a phenomenological account of identity, but also an account of its "transcendental conditions" (SS 32).

A person who stood outside the space of interlocution that frameworks define along their three axis, could only be regarded as being in a 'pathological' condition, according to Taylor, since "he wouldn't have a stand in the space where the rest of us are" (SS 31). We might describe this person as being in the grip of an 'identity crisis' where this denotes a radical uncertainty about where we stand. Our identity allows us to define what is important to us and what is not within a given frame of reference (SS 30). In suggesting that it 'matters' to us whether we are good, noble, courageous and the like, Taylor points to the importance of moral motivation as a well-spring of action. This marks an important departure from the dominant

trend within liberal political thought, considered in chapter one, which has attempted to define the core of morality by way of formal principles that can purportedly offer convincing responses to ethical questions without recourse to our deepest moral convictions.

3. MAKING ROOM FOR ALTERNATIVE MODERNITIES

As we have seen Taylor makes claims about human agency that he regards as having universal as opposed to a merely historical-cultural significance. However, despite these strongly universalist claims at the level of the structure of human agency, Taylor thinks that his wider philosophical project can be fleshed out in such a way that it does not run roughshod over historical or cultural variation.[66] Taylor's approach can acknowledge that processes of modernization have a tendency to promote convergence at the level of the structural and economic arrangements within different societies, however he does not think it correct to assume that these trends at the socio-structural level will apply also at the cultural level. Here there is latitude for appropriating the practices and forms of modernity in culturally specific ways.

On Taylor's view, the task of constructing a philosophical theory of modernity must be to construct a language that can make sense of 'alternative modernities', not through some culture-neutral capacity that is common to all, but through a finer grained understanding of our own path to modernity in the West.[67] This, he thinks, puts us in a better position than do liberal universalist models for understanding different cultures in their particularity. One of the consequences of this cultural approach to modernity is that it prohibits recourse to any privileged standpoint, which might provide a firm foothold for undertaking cultural evaluations or deciding on moral injunctions. Still, this should not lead us to a stance of moral relativism or, its equivalent in the realm of cultural evaluation, an affirmation of cultural incorrigibility.

The possibility of reconciliation between the diverse goods, which, as we have seen, potentially pull in conflicting directions, comes in the form of a model of practical reason where this is understood as 'a reasoning in transitions'. "It aims to establish, not that some position is correct absolutely, but rather that some position is superior to some other" (SS 71). This model is pertinent to attempts to reconcile goods within the context of an individual life or a shared

social configuration. In each case the dimensions of self-interpretation and historical time are fundamental. We weigh goods and make choices not only on the basis of who we are, but also on the basis of the direction that we want to give to our lives, that is, based on ideas about who we are becoming. Although Taylor does not consider the possibilities for reasoning across cultural boundaries in anything like as much detail as he does with regard to individual lives, or social collectivities, he claims that the same kind of considerations apply.[68] In this section then, I will consider Taylor's claim that his account of practical rationality can serve as a way of 'reasoning through transitions' as it is applied to each of these levels, the individual, the social and the intercultural.

3.1 Narrative identity and practical reason

As we have seen, Taylor looks to the Continental tradition of thought, especially to Heidegger, in order to develop an account of human agency that emphasises the situatedness of human agents, not only in the physical world, but also in time. He suggests, "My self-understanding necessarily has temporal depth and incorporates narrative" (SS 50). An individual not only has a sense of who she is by being able to locate herself in moral space, but also of who she is becoming. She gives unity to her life through a narrative which gives meaning to her past and direction to her future. Once we take on board this temporal dimension of identity, it becomes clear that human agency is not only conditioned by its orientation to the good, but also by the possibility of a growth or decline in a person's moral integrity.[69] This idea is not comprehended by an ethic that accords systematic priority to questions of morality (narrowly defined in terms of justice) over ethical considerations (which will include issues of personal fulfilment). He uses the following example to illustrate his point.

> Imagine a tropical republic governed by a red-green coalition. The leader of the Green Party (call her Priscilla) is the minister of natural resources, vowed to protect Tropicana's rain forests from total destruction. But the relation of forces is such that is becomes clear that the only way to avoid much worse destruction is to give over *x* square miles of the forest to the chain saws of a large multinational corporation. Priscilla is very intellectually convinced by this argument and realizes it would be irresponsible to sabotage the arrangement, but she asks to be relieved of her portfolio, so as not to be the person who actually introduces the necessary legislation and guides

it through the chamber. What is at stake here is something like integrity; this act would go against the whole direction of her life and the causes it has been dedicated to.[70]

Were the idea of personal integrity not relevant to the way we make moral judgements, Priscilla would retain her ministerial portfolio and carry through the legislation, the general utility of which, she is intellectually persuaded of. In resigning, Priscilla affirms the importance of personal integrity to her self-definition. Equally, though, there is no straightforward formula for weighing the relative importance of this good and the rival one of taking a more pragmatic stance in order to further the common good. Taylor notes, "Perhaps if the whole scheme was sure to unravel without her taking charge of the bill, and as a result the entire rain forests of Tropicana were sure to be razed, Priscilla would have stayed at her post."[71] Practical deliberation must be based not on an abstract comparison between two rival goods, but on practical alternatives as considered from the point of view of an agent who cannot escape her own historicity or finitude.

Taylor accepts that this model of practical deliberation does not provide an account that can offer complete clarity and decidability in moral judgements. He rejects the approach of formalistic varieties of ethics that offer 'criteria' on the basis of which to decide moral issues. Rather our language of good and right makes sense against a background of social interactions and qualitative distinctions that have meaning within a cultural constellation. However he insists that this is not to imply that right and good are merely relative and not anchored in the real, nor does it remove the possibility of making non-arbitrary decisions between competing goods (SS 56).

Taylor rejects the idea that abstract criteria, such as those incorporated in Rawls' account of public reason, can serve to define the form and content of obligatory action. Instead he focuses on narrative identity to suggest that different goods must be evaluated not in the abstract, but as they complement or detract from the direction that we attempt to give our lives. If we are to make sense of our own lives in this way and the actions and feelings that we have towards others, we cannot help having recourse to strongly valued goods for deliberating, deciding and judging in situations of moral choice (SS 59). Taylor argues that the ontology which is implicit in the terms which render the best account of ourselves carry 'realist force'. [72]

On the basis of the Best Account principle then, Taylor takes up a stance on morality

that Ruth Abbey has aptly termed "falsifiable realism." [73] This view contends that realism is the most persuasive approach to moral life until a theory emerges which can offer a better account of how human beings experience and respond to moral goods. Taylor argues that subjectivist theories of value fail to comprehend the most salient features of our moral phenomenology. In supposing that a good's importance reposes just in its moving us, it cannot account for the way in which being moved by some higher good gives us the sense of being moved by something authentic and transcendent. Taylor argues that this is an ineliminible component of moral experience regardless of the fact that adherence to the good often has a less prosaic source such as conformity with our milieu or obedience to an established authority (SS 74).

In attempting to offer an account of practical reason, which is more firmly rooted in authentic sources of moral motivation than, he claims, abstract models of procedural reason are, Taylor raises the issue of moral sources. The moral source of a good is that which empowers us to be good. This leads Taylor to propose the two-fold classification of life-goods and constitutive goods. Life goods are those actions, modes of being and virtues that define the good life for us[74]. These will include goods such as freedom, justice, benevolence, courage, honour and so on. Constitutive goods are what constitutes life goods as such and inspires our commitment to them.[75] Constitutive goods are the moral sources of our life goods in empowering us to do and be good (SS 93).

Despite the importance of constitutive goods, Taylor maintains that there is "an extraordinary inarticulacy about the constitutive ideals of modern culture."[76] Take, for example, the good of benevolence, which has become a highly valued life-good in contemporary culture. Although it is often simply affirmed as an ultimate good, Taylor thinks that we cannot explain the good of benevolence, let alone inspire universal commitment to it, without connecting it with a constitutive good which somehow clarifies what it is about human beings, or their place in the universe, or our relation to God, that constitutes its being a good. Taylor insists that "to recognise something as a higher goal is to recognise it as one that men ought to follow."[77]

Constitutive goods then not only provide the sources of moral motivation absent from formalist ethics, but can also allow us to achieve commensuration between life-goods in the context of a life. Hence, while Taylor's value pluralism leads him to concede that some goods

and values are uncombinable and make conflicting demands upon us, he also affirms that "goods which are now in conflict can be integrated into a single life, perhaps by being put in the context of some overarching good."[78] The capacity of constitutive goods to perform this role does not depend on their existing as realities that transcend human life and command universal respect (SS 73). Rather a constitutive good "offers a reason rather as I do when I lay out my most basic concerns in order to make sense of my life to you" (SS 76). Hence at the same time as offering a reason, it also helps define my identity.

3.2. Practical rationality and its role in historical understanding and cross-cultural evaluation

So far we have been considering Taylor's understanding of practical reason within the context in which individuals are forced to make choices between rival goods, that is "goods that are different enough that we have difficulty knowing how to weigh them together in the same deliberation."[79] However, Taylor's model of practical reason is given a wider remit than this. He thinks that it might also offer valuable insights for a problem that has become increasingly salient in the modern world, that is the problem of how we may undertake cross-cultural comparisons, and adjudicate between the sometimes conflicting demands emanating from the different ethical outlooks of diverse cultures and civilizations.[80] Taylor's approach to cross-cultural evaluation is closely linked with his ideas about how reasoning across historical boundaries is possible. What is more, the problems that he detects within contemporary philosophy, which stem largely from the widespread adoption of the 'epistemological standpoint, has led to analogous problems in both areas. He suggests that much contemporary philosophy fails to appreciate that "philosophy is inescapably historical".[81] It reads past authors as if they were contemporaries and treats their formulations and ideas as atemporal resources.[82] A similar problem is evident in social theory when the prevailing self-understandings of a culture are treated as the standards for the evaluation of others.[83] In each case, Taylor thinks, these difficulties can be avoided by a vocabulary that aims to perspicuously describe different forms of life through the articulation of a language or practices that are common to them. I will turn first to his reflections upon historical modes of reasoning since these have been more detailed and comprehensive than his analysis of how cross-cultural

evaluations might proceed.

3.21 Articulation, and perspicuous redescription within the moral horizons of modernity

An analysis of Taylor's account of how ideas change in the course of historical development, is not only a useful route into his ideas about cross-cultural judgements, but has the further advantage of padding out some of his ideas about modernity that have already been discussed. In particular it gives a sharper focus to the issues raised in section one. Here it was noted that Taylor attempts to offer a finer grained analysis of modernity. His historical approach to the modern identity leads him to be sceptical about 'optimist' and 'pessimist' accounts of modernity in equal measure. Taylor's account of how ideas change in the course of history helps to explain why he thinks that "it is wrong to think that we have to choose between readings of history, as progress or decline, fulfilment or loss" and accept the more plausible view that "it contains elements of both".[84] In addition, it can cast light on the status that Taylor is claiming for his own historical account of the diversity of goods that inform the modern identity.

Taylor argues that the epistemological model that has held philosophy captive for so long is difficult to shake off precisely because it becomes difficult to see, from within this confined standpoint, what an alternative model would look like.[85] The previous vision that Descartes struggled to overturn (advising his readers to spend a month thinking about the first meditation) has been 'forgotten' so much so, Taylor claims that "Cartesian dualism is immediately understandable to undergraduates on day one."[86] This forgetting is mediated, according to Taylor, by a process in which practices and forms of social organization become infused with the dualist picture of mind-in-the-world and the associated representational construal of knowledge. Hence "the model becomes embedded in our manner of doing natural science, in our technology, in some at least of the dominant ways in which we construe political life (the atomistic ones), ... and in other spheres too numerous to mention."[87] In view of this process of forgetting, creative redescriptions of the contemporary predicament, such as Heidegger's portrayal of human embededdness through the category of 'being-in-the world', or Taylor's account of human agents as 'strong evaluators', will not, in themselves, be sufficient to

overturn the picture, since they are likely to seem counter-intuitive when viewed from the perspective of current practices and related cultural understandings. It is for this reason that Taylor appreciates, as Heidegger did before him, the need to complement these analyses with a 'genetic account'.[88] Only an act of historical retrieval which uncovers the origins of the dominant outlook, and explains how it became embedded in our practices, will undermine its presumption to offer a universal framework a privileged mode of access to knowledge and truth.

Taylor notes that in recent years, the tide has turned against epistemology.[89] On the Continent, attempts to offer repudiations of the epistemological enterprise begun by theorists such as Heidegger and Merleau-Ponty have continued through the movements of structuralism and post-structuralism. While in the Anglo-American world, Taylor takes Richard Rorty as one of the foremost representatives of this approach.[90] However, some of these accounts, such as that presented by Rorty in *Philosophy and the Mirror of Nature,* regard some variety of non-realism to be the only sincere response to a situation in which philosophical foundations can no longer be sought in epistemology.[91] Taylor wants to suggest that this non-realist view is deeply mistaken. Critiques of this sort become locked into the dualist oppositions between subject and object, internal and external, real and non-real that are tied up with epistemological tradition. These accounts therefore "destroy all bases for critical evaluation and discourse across fundamental lines of cultural and philosophical difference, putting forward the strong claim that there are no criteria which transcend the splits among interpretative traditions."[92] They undercut the critical potentials of practical rationality.

Taylor offers the typically Aristotelian caution that in issues involving practical rationality, one can never be sure that one has unequivocally established one's case. We should not therefore aim for clarity over and above that which the subject matter permits.[93] Since there is no method for arriving at final truths in the ethical domain, we should not, in relating our cultural constellation to those which preceded it, view modernity through a lens of progress or decline. However, it is possible, Taylor thinks, to understand the process by which the transitions between frameworks which supersede one another through the course of history, in terms of 'epistemic gains'.

In order to get clearer about the 'epistemic gains' that result from historical transitions, Taylor introduces the idea of 'hypergoods'. "Hypergoods are understood by those who espouse them as a step to a higher moral consciousness" (SS 64). They provide decisiveness and clarity on moral issues by placing some good in a position of supreme importance relative to others. For the same reason, they are also "generally a source of conflict" (SS 64). What is distinctive about contemporary appeals to hypergoods, Taylor suggests, is that their status as supremely important goods tends to be linked to the acknowledgement that they superseded earlier less adequate models. He uses the example of equal respect, which replaces earlier hierarchical models of society with the idea that the principle of non-discrimination should be the benchmark of justice, such that all people are treated equally irrespective of race, class, sex, culture and religion (SS 64-65). That contemporary hypergoods are conceived of in this way points to the importance of understanding these goods genetically, Taylor thinks. This has profound implications for the status we attribute to those goods for which we claim supreme importance.

Taylor accepts that it will always be necessary to rank goods and develop a language through which the relative importance of goods can be articulated and weighed. However, he takes issues with 'segregating' accounts of moral life which attempt to "insulate their higher goods from figuring in the same deliberative process" (SS 64). Kant provides the paradigm example of this sort of moral theory. For him "the boundary between the categorical and the hypothetical was meant to mark the line between the moral and the non-moral."[94] But this kind of 'segregating' moral theory is also dominant within contemporary liberalism too he thinks, for example in John Rawls *Political Liberalism*. He isolates Habermas's discourse ethics as his main target though (SS 64). Discourse ethics provides a prime example of the segregating approach, he thinks, in claiming absolute priority for a moral standpoint, which is supposed to be "in some way more obvious, less contentious and open to dispute than understandings of the good life."[95]

These 'segregating' approaches to morality give rise to what Taylor refers to as, 'epistemological malaise' since they fail to offer an articulation of their most fundamental moral commitments in ethical terms. What they lack, he suggests, is a vocabulary with which to

confront those who may claim not to share our basic moral intuitions.[96] They cannot provide a response to what he takes to be one of the foremost dilemmas for contemporary ethics, namely how conflicts between rival outlooks may be rationally arbitrated.

The hypergood perspective avoids these difficulties in being linked with the idea of 'constitutive goods' so that "our acceptance of any hypergood is connected in a complex way with our being *moved* by it" (SS 73). This is inextricably connected to our powers of articulacy, as we will not be moved by a good unless we can appreciate and articulate its worth within our lives. Hence the claim that a hypergood represents an epistemic gain in defining our moral frameworks will depend on our capacity to articulate the way in which it offers the best account of the self-understandings and practices that define us.

What Taylor finds problematic in Rorty's response to the epistemological construal is that it replaces a privileged standpoint with a radically situated one. It offers a critical perspective by way of an alternative construal of mind-in-the-world that contests the epistemological standpoint, but crucially does not problematise the framework that defines it. Taylor's alternative approach attempts instead to peel away the layers of forgetting that made this view convincing. It thereby provides not only an alternative understanding of the nature of the subject and his position in the world, but a more comprehensive one. Through a process of 'creative redescription' it offers us a more clairvoyant view about our self-understandings and practices. What distinguishes genetic approaches, such as Taylor's from polemic ones such as Rorty's, is that the former attempt to give an account of the historical sources and motivations of rival positions, which is clearer than that which they give of themselves. Taylor thinks we can do none other in our quest to make sense of our own lives, and the practices, which define the cultural horizons of modernity, than, search for the most clairvoyant explanations. "The result of this search for clairvoyance yields the best account we can give at any given time, and no epistemological or metaphysical considerations of a more general kind about science or nature can justify setting it aside. The best account in the above sense is trumps" (SS 58). Taylor's own historical approach to modernity then, is clearly an ambitious attempt at articulation that aims to provide a comprehensive account of this sort. It is not one that will beat all comers, but one which throws down the gauntlet to alternative theories.

3.22 Practical rationality and the intercultural perspective

The idea that the best account of historical transitions are afforded by 'creative redescriptions' that can comprehensively describe rival positions, bears a close similarity to the idea of 'perspicuous contrast' which is central to Taylor's account of how practical reason can be effective in circumstances of cross-cultural understanding. Here the dilemmas that Taylor sees himself as addressing are also similar. With historical reasoning, an attempt is made to find a middle way between the realist construal of context-transcendent standards of knowledge and truth, and a radically historicist account which is sceptical about achieving any objectivity on ethical matters. Similarly in the sphere of cross-cultural understandings the chasm to be bridged with a viable account of practical reason is between 'ethnocentricity' and 'relativism'. Ethnocentricity involves judging other cultures by standards, which we take to be universal and transcendent, but that in fact incorporate the prejudices of our own cultural understandings. Like Isaiah Berlin, Taylor thinks that there is a strong psychological propensity that pushes toward ethnocentric projection so that we must continually guard against it.[97] The process of re-considering our own self-interpretations in the face of direct confrontation with the quite different cultural values and philosophical outlooks emanating from quite different cultures and histories is inevitably difficult and sometimes painful. This fuels the temptation to appeal to dogmatic truths. It is this that makes appeal to hypergoods so dangerous once they have been severed from the 'constitutive goods' that lie behind them and through which we are able to articulate their value *to us*. That is, through an appeal to the place they occupy relative to our self-understandings and moral motivations.

Just as we cannot abstract from our own self-understandings and take up a view from nowhere from which to evaluate the practices of different cultural groups, so too, we cannot bypass the self-understandings of these same cultural groups if we are to attempt to make sense of their radically different cultural practices. Equally though, we should not give everything over to these cultural understandings, treating them as incorrigible since, as we have seen from the example of historical understanding, there is always the possibility that we can alight on some description of cultural understandings that offers a more perspicuous analysis than is available to the agents themselves. This would be dependent upon the

formulation of a common language:

> "A language in which we could formulate both their way of life and ours as alternative possibilities in relation to some human constants at work in both. It would be a language in which the possible human variations would be so formulated that both our form of life and theirs could be perspicuously described as alternative such variations. Such a language might show their language of understanding to be distorted or inadequate in some respects, or it might show ours to be so (in which case, we might find that understanding them leads to an alteration of our self-understanding, and hence our form of life- a far form unknown process in human history); or it might show both to be so."[98]

What is certain, for Taylor, is that any attempt to foreclose possibilities of commensuration between rival goods within the context of a single life, a cultural tradition or across cultural boundaries by a premature appeal to the idea of incommensurability in these contexts, is sloppy and nonsensical. In fact, given the serious possibilities for transformation that reasoning across cultural boundaries can affect for the self-understandings of cultural groups, Taylor thinks that the idea that different cultures realise genuinely incommensurable kinds of human realisation, is unlikely (SS 61).

4. CONCLUSION

It is now time to draw the themes of this discussion together. In section one, I offered a brief outline of Taylor's genetic approach to defining the moral horizons of modernity. I focused in particular on the sources of conflict between the two frontiers of disengaged reason and Romantic expressivism. Both of these developed out of, and in the process transformed, the original theistic grounding. In section two I identified this historical account as a contestable response to inescapable questions: questions that must arise for human agents understood as 'strong evaluators'. Section three clarified this notion of contestability through an analysis of Taylor's account of practical reason. While Taylor considers all claims made in the sphere of ethics to by necessarily incomplete and open to dispute, they may nevertheless claim objectivity in offering the best account of ourselves and of our practices. It is against this background that Taylor seeks to advance what he takes to be the "most perspicuous interpretation of the diverse character of modern Western identity."[99]

4.1 The 'naturalist temper'

As a preface to his intricate analysis of modern identity Taylor asserts that "Selfhood and the good, or, in another way, selfhood and morality, turn out to be inextricably intertwined themes" (SS 3). The convincingness of this account of selfhood is, he thinks, provided for by its offering an analysis of human agency which is plausible on phenomenological terms, and which supersedes naturalist approaches by providing the best account of ourselves. This is possible insofar as it is able to make a convincing claim to epistemic gain on the basis that it can offer a more plausible analysis of the historical roots and motivations of naturalism than is provided for from within the naturalist framework. On this level, Taylor's account is clear and convincing, but ultimately it is an impressive assault upon an already stale approach to social and political science. The nature of its challenge to modern philosophical approaches sometimes seems rather vague and oblique.

Taylor accepts that crude forms of naturalism, which drew strength from the scientific revolutions of the seventeenth century, have been discredited, and that more recently, the epistemological perspective, which naturalism helped to sustain, has also come under attack. However, he insists that these ideas continue to exercise a powerful influence upon us, almost imperceptibly, as a result of their having become ingrained in our practices. His main contention appears to be that reductive naturalist philosophies have made it difficult to be explicit about what we know to be the case. He suggests that the naturalist temper has bleached out qualitative distinctions, strong evaluations and the frameworks of value upon which these depend, to such an extent that we are uncomfortable about defining ourselves in relation to those goods that are constitutive of our identity. This is perceptible, he thinks, in both the silence of modern political theory on 'shared goods' and the prevalence of atomist and instrumental approaches to political life, themes explored in the next chapter. In section two of this chapter I considered Taylor's argument that it is evident also in the great appeal of 'segregating' theories of morality, which, he suggests, often underwrite these more specifically political approaches.

Taylor claims that segregating theories of morality respond to the situation of the diversity of goods by effectively invalidating some of the crucial goods in the contest. They

have done so, he thinks, by placing them in an enduringly inferior position to those goods that they understand as commanding supreme importance. Taylor mentions both Rawls and Habermas as people who fall into this trap in consistently prioritising questions about what it is right to do, over questions about what it is good to be. That is they have been less interested in considering the nature of the good life than with determining the content of obligation. I consider Taylor's specific critique of Habermas's procedural ethic in Chapter Four (section 3.1). In more general terms, Taylor contends that, the main problem with formalist ethical doctrines such as these is their 'metaphysical embarrassment at open avowal of moral sources' (SS 496). They cannot grasp, he thinks, "the search for moral sources *outside* the subject through languages that resonate *within* him or her" (SS 510). They leave no space for consideration about the good as an "object of love and allegiance" or, as it is portrayed in Iris Murdoch's work, "as the privileged focus of attention or will" (SS 3).[100]

Before going on to consider where Taylor's own search for moral sources leads him though, it is worth noting that the charges he levels at procedural liberalism are at times more circumstantial than they are specific. Taylor recognises that procedural liberalism has no direct connections with the naturalist standpoint. Indeed he cannot but acknowledge that, "Kantians have been especially critical of naturalism."[101] Nevertheless, his approach sometimes has the appearance of making procedural liberalism seem guilty by association with naturalism on the basis that neither approach offers any guidance for making qualitative discriminations about the good, or for appealing to moral sources beyond the self. For naturalist theories though, this is a consequence of the attempt to reduce all human behaviour to externally describable events. Procedural liberals, on the other hand, understand themselves to be appealing to a more abstract account of the good defined in terms of impartiality. They claim not to make any strong claims about the nature of the good or about the structure of human agency, but to provide an account of the "social conditions required for people to judge and pursue their own conceptions of the good."[102] As we shall see in the following chapter, Taylor recognises the force of a political liberalism that self-consciously abstracts from ontological questions in order to develop a purely political liberalism. (Chapter Three, section 1.31).

4.2 Moral horizons and the diversity of goods

I now want to consider Taylor's own attempt to retrieve the constitutive goods and moral sources which naturalism and formal procedural ethics have eclipsed. As Mark Redhead points out, one of the most important political implications of Taylor's theory of modernity is the idea that "the only viable means of confronting the malaises of modern democracies is by working with- and not dismissing any of- the constitutive goods and life goods that have defined who we (and what the malaises faced by modern democracies) are."[103] However, as we have seen, it is at the level of constitutive goods, as opposed to life goods, that the most serious and seemingly intractable conflicts arise, and it is for this reason that contemporary moral theory has attempted to do without recourse to constitutive goods at all. In so doing, Taylor thinks, they cannot provide an adequate account of moral motivation, nor can they make sense of our conviction that "what we hold to be good is ultimately something to which we respond, not something we project."[104] Taylor therefore urges us to become more aware of and articulate about constitutive goods, by renewing contact with those moral sources that have brought us to where we are. Two potential difficulties issue from Taylor's own attempt to renew contact with these moral sources. Both make the case that Taylor's account is not as open to plural goods and diverse cultural traditions as he claims. Only one of these, I think, points to potentially serious difficulties within his approach.

The first is his singular engagement with Western intellectual traditions as a means of defining these sources. This appears to sit uncomfortably with the claim advanced in *Multiculturalism and the Politics of Recognition* that "all human cultures that have animated whole societies over some considerable stretch of time have something to important to say to all human beings."[105] If this is the case, why not draw on these traditions too in seeking a more perspicuous understanding of who 'we' are. As Mark Redhead has pointed out, "Despite his talk of cultural borrowing, Taylor's account of Western modernity does not incorporate the forms of cultural borrowing involved, preferring instead to explicate an inescapable moral horizon through an analysis of selected voices within Western intellectual history."[106] As we have seen, one of the advantages that Taylor claims his 'cultural' approach to modernity has over 'acultural' approaches is that it is better able to accommodate 'alternative modernities' and

arrive at cross-cultural understandings. In failing to engage with alternative cultural traditions it appears that Taylor has reneged upon this commitment.

Taylor can, I think, dispense with this criticism fairly effectively. He does not aim to make presumptive judgements about the aims, values and worth of 'alternative modernities' or different cultural traditions. In fact it is precisely these presumptive judgements that his theory seeks to avoid. He offers instead a framework of practical reason within which rival accounts and alternative traditions can be articulated on equal terms, and can gain a sympathetic hearing. He is unambiguous in his view that different goods cannot be evaluated or judged in abstract terms. Goods can only be articulated through a common language and shared frame of reference. They can only be weighed and evaluated from the point of view of a narrative that provides meaning and to the life of an individual, a culture or a nation. This is why Taylor issues the Aristotelian caution about practical reason and seeks to guard against those hubristic rationalistic approaches that are in constant danger of collapsing into ethnocentricity by assuming that our standards of rationality are *the* standards of rationality. He argues that we should not take for granted the existence of a free-floating autonomous rationality, nor assume that we are thereby locked into an ethnocentric prison, as non-realists would have us believe. To highlight this idea, he asks us to imagine, "an extra-terrestrial being asked to award the palm to the civilisation with the most plausible view of human nature. He would straight away take flight back to Sirus."[107] A similar feeling of incomprehension would befall a Westerner attempting to "decide between the Buddhist view of the self and Western conceptions of personality", [108] he thinks. By the same token though, the fact that we don't always feel ourselves to be in the bewildered position of the 'Sirean' alien indicates the extent that we feel ourselves to be at home in the world, and within a given range of cultural understandings. This makes the non-realist position appear if not implausible, counter-intuitive at least. Whatever the merits or demerits then of Taylor's choosing to develop an account of the modern Western identity using only Western cultural resources, it does not appear to be internally inconsistent, or to cause serious difficulties for its capacity to be sensitive to alternative cultural traditions.

The second, apparently more intractable difficulty arising from Taylor's attempt to retrieve moral sources stems from the fact that he appears to alight on Judaeo-Christian theism

as the most fully adequate moral source. I have considered in some detail Taylor's exposition of the two moral sources of 'disengaged freedom' and 'Romantic expressivism' and his idea that the conflict between them has been one of the driving forces of modernity. The conflict between them will not, Taylor thinks, be adequately resolved by a triumph of either one over the other. He finds both approaches problematic, considered in isolation. The priority given to disengaged freedom contributes, he thinks, to the contemporary malaises of modernity, which he describes as 'alienation', 'misrecognition' and 'fragmentation'. These are considered in more detail in the following chapter. However there are also difficulties within the 'Romantic expressivist' constellation, to the extent that the historical trends towards inwardness and the affirmation of ordinary life have reduced the Romantic ideal of self-fulfilment to self-centred ones. Taylor recognises that "although expressivism may take the form of protest against both the disengagement from nature and feeling that is associated with the inward turn and the stifling of exceptional creative expression that may result from the affirmation of ordinary life, it can just as easily appeal to both in a slide into radical subjectivism, the denial that there are any moral sources outside the unproblematic, inarticulate self."[109] This slide to subjectivism deprives moderns of a vocabulary through which to articulate important goods, such as heroism, aristocratic values, higher purposes in life, or things worth dying for, that continue to define our self understandings in some way (SS 500). Hence, though he himself utilises Romantic expressivist ideas in order to discredit the ascendant disengaged standpoint, he does not think that the simple recovery of this tradition will be enough to stem the various malaises which result from the inability of individuals to pursue purposes beyond their own immediate self-satisfactions.

Taylor therefore looks to the Judeo-Christian tradition, from which the other two moral sources arise as 'frontiers of explanation', as a possible locus for the recovery of a more adequate language for constitutive goods. He argues that, "high standards need strong sources" (SS 516), and though theism is contested as to its truth, "no-one doubts that those who embrace it will find a fully adequate moral source in it" (SS 317). The other two moral sources, Taylor thinks, cannot claim this kind of self-sufficiency with the same degree of assurance. Even for those who fully recognise and affirm the dignity of reason, or the goodness

of nature, the question can arise as to whether "this is in fact enough to justify the importance we put on it, the moral store we set on it, and the ideals we erect on it" (SS 317). He wonders whether moderns are living beyond their moral means in espousing justice and benevolence without reference to the Christian notion of *agapê* (SS 516). The aim of attunement to the Christian sense of *agapê* "is to associate oneself with, to become in a sense a channel of, God's love for men, which is seen as having the power to heal the divisions among men and take them beyond what they usually recognise as their limits to their love for one another."[110] The central promise of this Judaeo-Christian theism consists in "a divine affirmation of the human, more total than humans can ever attain unaided" (SS 521).

Taylor raises an interesting point in considering that something like the idea of *agapê,* as opposed to a purely secular respect for rational autonomous selves, may be the only fully adequate ground, both philosophically and motivationally, for the modern commitment to benevolence. However, while providing a possible source of motivation for our deep moral commitments, Taylor's turn to God raises pressing questions. Of particular concern is whether his claim that "the most illusion-free moral sources involve a God" (SS 342) can contribute to defining the terms of mutual co-existence in a way that is compatible with the aims of democratic pluralist societies. In these societies, institutions will aim to allow, or enable each individual to pursue her own conception of the good, and they will no doubt include individuals "who have lived perfectly clairvoyant lives without seeing the need for a transcendental foundation for their moral goods, let alone a theistic one."[111] In this case an appeal to moral sources, in particular a theistic one, may less stem the tide to alienation and fragmentation than contribute to them.

Taylor may contend that he proposes the moral source that for him offers the most perspicuous interpretation of the Western modernity and ethical life, in a spirit of hermeneutic openness to alternative traditions. That is, as a response that provides contestable answer to inescapable questions. Something like this interpretation seems to be compatible with Taylor's claim that one of the defining features of modernity is the extent to which we hold our beliefs and values in a reflective way, profoundly aware of the problematic nature of all frameworks (SS 18). Whatever the truth of this claim, it is clear that a political response must go further. It

is not enough simply to acknowledge that this particular account of moral ontology is contestable. It must also anticipate that it will be contested, and provide a framework within which, those who subscribe to different 'constitutive goods' are included on equal terms, and given a fair hearing. Taylor does not avoid these questions; indeed the next chapter is devoted to his response to them. Finally though, I want to prefigure one of the problems for it, which I think carry over from his ontological approach.

4.3 'Discovery', 'invention' and concealment: tensions in Taylor's thought

I argued in the previous section that the charge that Taylor reneges upon his commitment to accommodate a plurality of goods by drawing exclusively on Western cultural sources is without foundation. This is because he appeals explicitly to an account of practical reason in order to mediate between rival goods and cultural traditions. A condition of practical reason being effective here is its deployment in circumstances in which there is sufficient common ground for us to be able to see how to judge.[112] Developing these shared understanding will depend, he thinks on our powers of articulacy. However, Taylor remarks that we "often feel ourselves less able than our forbears to be articulate" (SS 95) This is because in modern circumstances, in which we recognise that goods are contestable, their counting as goods for us will depend upon our capacity to articulate the value of these goods in terms of our own self-understandings. The meaning that goods have for us will not be fixed by reference to an impervious framework. Rather, we will only "find the sense of life through articulating it" (SS 18). Taylor thinks that the extent to which we are able to find sense in life as moderns will depend on our ability to give expression to it. Hence in this sphere, "Discovering… …depends on, is interwoven with inventing" (SS 18).

The activity of articulating what is implicit in our shared practices also has a potentially transformative effect in Taylor's view. As Stephen White notices, "the very activity of articulating those things that are morally and spiritually crucial to one's form of life unavoidably puts one in a position of seeing/ feeling them in new contexts with new possibilities."[113] Moral sources can therefore be 'transvaluated' on the basis of these articulations.

Articulacy involves not only a common language but shared practices. Shared practices provide us with a common framework, within which we can develop and sustain a common

language. Hence it seems that Taylor is committed to saying something about the set of practices which would could provide an appropriate basis for the kinds of cultural and inter-cultural conversations that he thinks his theoretical account of practical reason capable of mediating. Taylor seems to regard the existing practices that are embodied in liberal democratic institutions as most promising. This seems to be in keeping with his general thesis about the mutual interdependence between discovery and invention. In our attempts to understand an existing practice we are, Taylor thinks, driven back to "the last (most recent) perspicuous formulation of the good purpose embedded in [that] practice."[114] Equally though, shared practices are always susceptible to innovation through 'creative redescriptions'.[115]

Difficulties arise however, from Taylor's attempt to formulate the most perspicuous interpretation of those practices made available to the inheritors of an explicitly Western model of cultural modernity, in particular the practice of self-rule. Taylor is an important critic of the juridical model of constitutionalism, pointing out that citizenship cannot be understood as simply an "instrumental hedge against exploitation by government."[116] He recognises that democratic constitutionalism is not simply a matter of limiting government power, but of recognising individuals as citizens of a republic. However, Taylor's affirmation of self-rule as a political good that informs the practice of liberal democracy is an attempt to retrieve an outmoded civic republican ideal, which he finds tied up with the tradition of romantic expressivism. On this view, self-rule is predicated upon the need to construct 'a people', and our status as citizens is dependent upon our finding our identity accurately and respectfully 'recognised' in this unified political identity.

The following chapter considers some of the difficulties that attach to this approach. While practices of self-government may offer spaces for the exercise of practical reason and practical judgements of the kind Taylor envisages, his own account focuses too exclusively on a highly contestable account of the good that these practices seek to realise. This makes for some tensions within Taylor's thought. Firstly, his emphasis on the need to establish the people as a collective agent in advance of democratic deliberation runs counter to the spirit of practical reason and hermeneutic openness to alternative traditions that informs his ethics. Secondly, in conferring upon the state a responsibility to 'recognise', positively affirm and, where necessary,

legally protect the distinct identities of its citizens, is in tension with his focus on the interrelationship between 'discovery' and 'invention' in articulating those goods which are crucial to our self-identity.

Chapter Three. Charles Taylor: *The Affirmative Public Sphere and the 'Politics of Recognition.'*

Introduction

Taylor draws upon the ontological account, described in the foregoing chapter, to present a thoroughgoing critique of procedural liberalism and offer an alternative non-instrumental approach to politics. His distinctive brand of liberalism seeks to foster citizen self-rule and accords a high priority to the public affirmation of different cultural identities in the public sphere. Taylor does not think it possible to draw concrete or comprehensive conclusions about politics from a particular ontological vision, but neither does he regard his attempt to reassert the importance of ontological thinking, in the face of its eclipse in social theory, as being without political import. He thinks that a plausible ontology can usefully illustrate the inherent limitations and concealed costs of a procedural liberalism which, following the mainstream current in western political thought, has regarded philosophical reflection on the ultimate nature of being as quite remote from pressing moral and political concerns.[1]

As we have seen, Taylor's ontological holism emphasises the centrality of cultural situatedness and linguistic embedding for any adequate understanding of the self. From this

perspective, he is able to elucidate two important features of human experience, which he claims have political significance, more adequately than can procedural liberalism. The first of these is the idea of freedom as self-direction. This contrasts with the classical liberal understanding of freedom as absence of constraint. Secondly, taking the example of language as in some sense paradigmatic, he aims to develop a more adequate understanding of the nature of shared goods and an appreciation of their political import. Taylor argues that shared goods such as citizen self-rule and cultural survival have a high political currency in contemporary democracies. In failing to ascribe value to these goals, procedural liberalism pays a heavy price in terms of its ability to provide for a viable political order, Taylor suggests. Stability and shared political commitment give way to various social malaises such as 'alienation', 'fragmentation' and 'misrecognition', in circumstances where these shared goods are constitutive of who we are, but are not adequately articulated. Procedural liberalism can do nothing to confront these malaises, Taylor insists, but is likely to exacerbate them due to its ontologically disinterested standpoint. Hence, in embracing procedural liberalism, modern society edges towards a 'legitimation crisis' where social anomie and disaffection ultimately spell political breakdown.[2]

In providing a response to these problems, Taylor's political theory "has the character of a clinical discourse: it aims to diagnose social ills and suggest paths for recovery."[3] His response to the problems of fragmentation and alienation is inspired by both communitarian and republican ideals while retaining a strong liberal emphasis on rights, procedures and institutions, such as the rule of law and representative government. Section one considers Taylor's critique of the 'primacy of rights' thesis. Taylor thinks that this thesis unites contemporary liberals such as John Rawls and Richard Dworkin, with seventeenth century atomists such as Thomas Hobbes and John Locke. Taylor appeals to a holist ontology to suggest that, to prioritise rights without comprehensively examining the self-understandings of the autonomous agents that these rights are intended to serve is nonsensical. Autonomy requires at the minimum an idea of freedom as self-direction, which pertains only to agents capable of making qualitative discriminations about those things that matter to them. Furthermore, the self-understanding of autonomous agents is not something that can be

sustained outside of civilisation for which the notion of a citizen republic realising the shared good of self-rule has been definitive. For Taylor, autonomy understood as self-determining freedom requires a social matrix which upholds the moral integrity of individual agents and allows them a voice in deliberation about public action. He offers an account of those political practices, which he thinks can enable and sustain individual freedom alongside effective common action. Section one concludes with an account of Taylor's attempt to conceive of the public sphere in terms which affirm the differences between citizens, but imputes to each of them an 'obligation to belong'.

Section two considers Taylor's response to the third theme of misrecognition, which perhaps marks out his most original and influential contribution to debates about liberal politics and cultural accommodation. In an important essay *Multiculturalism and the Politics of Recognition,* he problematises the core liberal conception of citizenship based on principles of equal citizenship status and non-discrimination by juxtaposing it with an alternative model of citizenship, termed the 'politics of difference' which appeals to ideas of authenticity and distinctiveness. For Taylor, the role of the state cannot be described in neutral terms, rather it must be interpreted as a body for promoting certain goods, including that of self-determining freedom. This, he thinks, does not mean simply recognising the value of self-rule as an overarching shared good which fosters a sense of belonging within a political community, additionally, it requires that the state recognises other modes of belonging that arise through the endorsement of shared goods defined in cultural or linguistic terms.

Finally, I suggest that while the idea of misrecognition has served as a useful diagnostic tool for examining the dynamics of inclusion/ exclusion, significant problems arise from Taylor's constructive, as opposed to diagnostic enterprise, of understanding cultural claims as appeals for recognition, where the notion of recognition is tied to the idea of a positive affirmation of worth, and is appealed to in support of the idea of cultural survival. Taylor's understanding of the public sphere as a shared identity space can cohere with the problematic elements of Taylor's approach to recognition only through the supporting role played by an incipient teleology.

1. THE AFFIRMATIVE PUBLIC SPHERE

1.1 Beyond the liberal/ communitarian dichotomy

Taylor wants to offer an alternative to the dominant strand of liberal politics, which emphasises state neutrality and the priority of rights, an approach exemplified by John Rawls and Ronald Dworkin[4]. On this view, the role of the state is to furnish citizens with a framework which can provide for the pursuit of private goals. The state should be neutral, that is, it should not promote any particular conception of the good, since to do so would compromise its role in ensuring individual freedom. The central doctrine of this tradition of liberalism, which Taylor wants to disparage "is an affirmation of what we could call the primacy of rights."[5] This doctrine is plainly expressed in Dworkin's dictum that, "Rights are best understood as trumps over some background justification for political decisions that states the goal for the community as a whole."[6] These theories, which frequently employ the idea of a social contract, take the status of rights as fundamental and do not afford the same status to a 'principle of belonging'. "Rather our obligation to belong to or sustain a society, or obey its authorities, is seen as derivative, as laid on us conditionally, through our consent, or through its being to our advantage."[7] Citizenship is regarded as an instrumental good as opposed to having an intrinsic value.

Since Taylor's alternative approach involves the affirmation of shared goods and collective goals, he has often been interpreted as "participating in a communitarian critique of liberalism."[8] In common with other thinkers frequently identified as 'communitarian' such as Michael Sandel, Alisdair MacIntyre, Robert Bellah and Amitai Etzioni, Taylor argues that the foundations of political frameworks must be laid at a deeper level, one that recognises the importance of community and belonging, alongside the interests of individuals and the pursuit of individual goods.

Those usually placed under the communitarian banner actually comprise a rather disparate collection of thinkers, yet they are united by the idea that liberalism's singular emphasis on the individual weakens the bonds of sympathy and solidarity typically fostered by a sense of belonging to a shared community. They reject the idea that it makes sense to consider individuals as separate and disengaged, an idea that receives its paradigmatic

formulation in the thought experiments of social contract theory which imagine individuals in a 'state of nature'. Communitarians reject what Taylor has referred to as a "stripped down view of the subject"[9]. Instead, they insist that individuals are socialised within, and constituted by, their families and local communities.[10] On this view, "The self… … is a much richer and more contextualized notion than the liberals will allow, and prioritising the justice of the rights of the individual is an unwarranted reduction of the reality and complexity of the self and its attachments."[11]

Sandel has described the liberal vision which prioritises rights as the 'one by which we live', meaning that it is deeply ingrained in the political practice and social understandings of contemporary politics in the U.S.A at least.[12] However, communitarian thought has also achieved some political influence in shaping the agendas of centrist political parties in Britain and the United States[13]. Communitarian scholar and Professor of Sociology at Columbia University, Amitai Etzioni was an advisor to the Clinton administration and more recently has reportedly met Tony Blair and David Blunkett, and had regular sessions with Downing Street policy advisors.[14]

While communitarianism offers a definite coherence as a critique of procedural liberalism, its positive agenda and direct political implications are rather oblique.[15] While communitarian accounts share an appeal to community as a restorative measure that can make good the deficits liberalism -with its emphasis on individual rights and its purported neglect of vital human goods such as mutual moral responsibilities, environmental concern and virtuous citizenship- there is disagreement within the communitarian camp about the level at which the restorative community should be pitched, and about the role of the state in securing the necessary conditions for engendering more active and vital communities.[16]

The notion of community, as it is affirmed as a counter-balance to the various malaises of contemporary social and political life, can be rather vague and 'fuzzy' without further clarification.[17] Of particular importance from the point of view of the current discussion, are the implications of the communitarian approach for current debates about identity politics and cultural accommodation. These are unclear, since whether or not a particular position is sympathetic to the idea of cultural protections will depend upon the form of community that the

account seeks to promote as being most central to social and political life. A communitarian stance that identifies diffuse networks of communal belonging as being central to politics might envisage a role for the state in protecting cultural communities as vital constituents of human well-being. However, a communitarian position that favours the state or the nation as the primary locus of belonging may resist cultural protections fearing that they may lead to the 'balkanisation' or 'ghettoisation' of distinct communities, and detract from communal identity of the wider political community.[18]

So, the communitarian position, baldly stated is ambivalent in the face of cultural claims. Consequently, it has come to be acknowledged that finding an adequate response to the dilemmas raised by cultural politics must involve extricating debates about cultural accommodation from the more familiar, but deeply polarised, dispute between liberals and communitarians.[19] While he is critical of neutralist liberalism, Taylor nevertheless resists the communitarian label. This is not only because it confuses rather than clarifies debates about cultural accommodation, but also because the use of the labels 'liberal' and 'communitarian' have contributed to the conflation of two distinct kinds of issues and placed limits on the political imagination.

On the one hand, the dispute between 'liberals' and 'communitarians' may be conducted at the level of *ontology*, where the disagreement is between liberal 'atomists' and communitarian 'holists'. At this level Taylor situates himself unambiguously in the holist camp, which locates the self within a social matrix the contours of which, shape the modern understanding of the individual. Contra liberal atomists, Taylor insists that we must have some sense of this individual and his distinctive mode of freedom, prior to any attempt to impose legal protections and guarantees through rights. At another level, disputes take place at the level of *advocacy,* though here they are typically less polarised, and turn on the relative importance attached to individuals and collectives in political life.[20] At the level of advocacy a range of political options is available to those on either side of the atomist/ holist divide, and the tendency to identify ontological holists as political collectivists is mistaken and limits the range of political alternatives. In particular, it forecloses the strand of liberal thinking with which Taylor most closely identifies, and which might be termed 'liberal holism'.

1.2 Liberal holism

Taylor identifies with those thinkers who might be termed 'liberal holist' such as Wilhelm Humboldt and John Stuart Mill. These thinkers "represent a trend of thought that is fully aware of the (ontological) social embedding of human agents but, at the same time, prizes liberty and individual differences very highly."[21] For Taylor undermining atomism is the other side of offering a convincing account of holist ontology. Atomist outlooks lend plausibility to liberal ideas of disengaged freedom and moral and political individualism. Taylor's alternative account of liberal politics appeals to holist ontology in order to highlight the importance of freedom as self-realisation, and acknowledges the political importance of shared goods. He recognises however, that ontological argument will not be sufficient to establish the credentials of his alternative approach to politics. It must also defend itself against varieties of ontologically disinterested liberalism that claim to provide the only feasible account of politics in circumstances of value pluralism.

1.21 Undermining atomism

Although a defence of liberal neutrality and the priority of rights is not reliant upon an atomist outlook, a point I shall return to, it does draw impetus from the fact that atomism has penetrated the modern psyche so very deeply. The previous chapter considered Taylor's attempt to undermine the influential epistemological stand-point of much modern philosophy by offering an alternative ontological perspective which interprets the 'self' not as a disengaged onlooker taking up an instrumental attitude to the social and natural world, but as a being whose very identity is constituted through social relations, and its embeddedness within the cultural horizon of modernity. Of particular importance is the agent's situatedness in linguistic structures, or 'webs of interlocution', since what is at stake at the most fundamental level between atomists and non-atomists, is the way in which the relationship between language and thought is conceived.

Atomism is predicated on the view that the individual is, at the level of her own thought-processes, asocial and self-sufficient. However, once language is understood as constitutive of thought and identity, the idea of individual 'self-sufficiency' seems harder to

consistently maintain. Those liberal atomists who have paid close attention to questions of language, such as John Locke and Thomas Hobbes, have conceived of it in instrumental terms and accorded it the status of a conventional medium that allows individuals to communicate their pre-political ideas and understandings.[22] Liberal atomism thus combines smoothly with an instrumental approach to citizenship, which views political society as sphere for the negotiation of private, pre-political interests.

Not surprisingly then, the acknowledgement of the irreducibly social character of language is regarded by Taylor as the 'crucial step out of atomism', and the related instrumental conception of citizenship which "views society as in some sense constituted by individuals for the fulfilment of ends which are primarily individual."[23] Acknowledging language as a social inheritance, which not only allows the communication of individual thought processes, but also configures the basic operation of these thought processes "means accepting something into one's social ontology which cannot be decomposed into individual occurrences."[24] This weakens the liberal position, which in asserting the priority of individual autonomy over collective goods, combines most smoothly with an understanding of the individual as being in isolation from society and language. Once it is accepted that the acts and choices of individuals take place against a background of linguistically structured practices and understandings, that is, once the more holistic ontological vision described in the previous chapter is taken on board, liberal commitments to negative freedom and the primacy of rights lose some of the intuitive plausibility which they enjoy due to the prevalence of the atomist outlook in modern culture, Taylor thinks.

1.22 Freedom as self-realisation

The atomist outlook, which presents human agents as autonomous bearers of rights, cannot give a meaningful account of the autonomy it seeks to promote, in Taylor's view. It appeals to a negative conception of freedom -as the ability to pursue one's own goals without interference- but it elides consideration of the background conditions that are required to make these choices meaningful. Taylor describes those who accord "absolutely central importance to the freedom to chose ones own way of life" as "ultra liberals."[25] These 'ultra-liberals' are often,

he explains "chary about allowing that the assertion of right involves any affirmation about realizing certain potentialities; for fear that the affirming of any obligations will offer a pretext for the restriction of freedom."[26] Isaiah Berlin has offered one of the most compelling critiques of freedom as self-realisation from this standpoint, suggesting that the idea of freedom as self-realisation may provide a pretext for political oppression.

In his celebrated essay, "Two Concepts of Liberty", Berlin describes what he takes to be two distinct conceptions of freedom, insisting that they press in opposite political directions. He suggests that negative liberty, which describes freedom as non-interference, is the true source of modern liberalism. Positive freedom, which understands freedom as self realisation, is always in danger of supporting political totalitarianism, since it leaves open the possibility that coercion may actually be complementary for freedom, enabling the individual to realise her 'true' ends or 'higher' purposes. While Berlin concedes that there is no logical connection between positive freedom and political oppression, he suggests that they are conceptually related and historically linked. Appeals to positive freedom, he thinks, set in motion an irresistible logic that can all too easily culminate in totalitarian domination.[27]

In opposition to Berlin's thesis, Taylor argues that negative liberty is incoherent and that positive liberty need not result in political oppression. In order to advance this claim convincingly, Taylor must characterise these alternative versions of freedom in different terms than Berlin. He therefore employs a different conceptual language. He describes negative freedom as an 'opportunity-concept', since it assumes that the availability of various options is a sufficient condition for freedom, provided individuals are not impeded in the pursuit of these options. Negative conceptions of freedom regard the issue of whether the individual does anything to exercise these options as basically immaterial to a politically pertinent account of freedom. Positive freedom is, on the other hand, an 'exercise concept' since it involves the idea of exercising control over one's own life.[28] It assumes, as a condition of this, that the agent is able to pursue her favoured option, not just in the sense of being unconstrained by external forces, but also, in having the power to live her life in accordance with important personal goals.

Problems with the negative conception of freedom show up against the background of

Taylor's holistic ontology, which predicates a close relationship between the self and the good. In the opening paragraph of *Sources of the Self,* we are told that, "Selfhood and the good, or in another way selfhood and morality, turn out to be inextricably intertwined themes."[29] This is because the self has an intrinsically moral dimension in that the human agent is a 'strong evaluator'. A 'strong evaluator' as distinct from a 'simple weigher' evaluates the worth of his first-order desires which issues in the formulation of second-order desires[30]. Strong evaluation requires the individual to operate within a framework that prioritises goals and values, and so freedom must be understood in the positive sense as the realisation of those values and purposes that are most central to our own self-understandings.

Taylor gives the following example of someone's deepest aspirations being thwarted by an irrational fear in order to illustrate how important these qualitative discriminations are for modern understandings of freedom.

> "Say the fear of public speaking is preventing me from taking up a career that I should find very fulfilling, and that I should be quite good at, if I could just get over this 'hang-up'. It is clear that we experience this fear as an obstacle, and that we feel we are less than we could be if we could overcome it." [31]

The proposition is that the negative liberty account is phenomenologically inadequate, since the modern aspiration for freedom is concerned not just with removing external impediments to choice, but also with achieving that which we judge significant.

Taylor argues that the idea put forward by Herder that 'each of us has an original way of being human' has entered deep into the modern consciousness[32]. As a result we are accustomed to relate freedom to the ideal of self-mastery in the sense that it requires realising oneself in accordance with authentic purposes. Authenticity involves elements of both creation and discovery, since it is through expression that our inner nature is revealed.[33] The culture of authenticity has put great emphasis on relationships within the private sphere, especially intimate relationships, as a loci for self-fulfilment. However, Taylor suggests that the ideal of authenticity also has important implications for the public sphere.[34] The idea of freedom as self-mastery underpins the idea of citizen self-rule and also underwrites claims for recognition according to Taylor. He insists that the political import of the ideal of authenticity has been obscured, and one of his foremost aims is to retrieve this ideal.

However, this appeal to the idea of authenticity raises difficulties for Taylor's positive conception of freedom. The idea that irrational fears and transitory desires might interfere with the realisation of fixed and settled preferences is unquestionably a familiar scenario for most human agents. Numerous examples of people making choices that apparently thwart their deeper interests might be provided. A person's choice to smoke, for example, offers a paradigmatic example of a case in which deeper preferences for health, longevity and a good quality of life might be overridden by a desire that is shallow or trivial in the sense of not being central for the person's core identity[35]. Nevertheless no matter how ubiquitous this general experience, it does not establish Taylor's thesis that freedom consists not only in my achieving 'self-clairvoyance' and 'self-understanding' about my authentic purposes, but also, in "being able to overcome or at least neutralize my motivational fetters."[36] Taylor suggests that it is a condition of autonomous choice that "we rise to the level of self-consciousness and autonomy where we can exercise choice, that we not remain enmired through fear, sloth, ignorance, or superstition in some code imposed by tradition, society or fate."[37] For Taylor nothing short of an "obligation of self-fulfilment" will capture the true meaning of freedom in a society shaped by the idea of autonomy.[38]

Furthermore, describing freedom in these terms, it is difficult to resist the conclusion that some forms of political domination may be consistent with freedom. Taylor thinks that his conception of positive freedom can resist the slide to potentially oppressive definitions of self-realisation by not appealing to a metaphysic of the higher and lower self.[39] However, it is not clear that Taylor is successful in this objective insofar as he identifies free action with action based upon accurate self-knowledge of a core self that serves as a substrate to particular 'surface' conflicts of motives and interests. Stephen Macedo has pointed out that built into Taylor's account of positive freedom are implicit assumptions about the nature of authenticity which remain unsubstantiated. He writes, "The notion of authenticity seems to suggest that under the surface of conflicting desires or interests lies not simply a relatively stable set of commitments and propensities, but a fixed, true or higher self."[40] Macedo notes that Taylor neither demonstrates the existence of this fixed inner core, which is presumed by the appeal to authenticity, nor explains its nature.[41] As we shall see later, this difficulty is thrown into still

sharper relief as Taylor appeals to the idea of authenticity to clarify the nature of cultural claims through the idea of recognition.

1.23 Shared goods

Taylor thinks that the ideal of authenticity needs to be rescued from liberalism, or more precisely atomism, which has subverted its true meaning by interpreting it entirely as a doctrine of shallow self-fulfilment. One consequence of this, according to Taylor, is that interpersonal relationships come to be seen as more revocable with detrimental consequences for marriage and families.[42] However a more specifically political problem arises from a general "fall off in citizen participation."[43] This widespread depoliticisation of the populace contributes, he thinks, to the political malaises of alienation and fragmentation. Atomism then, when combined with the idea of authenticity leads to the fateful situation whereby relationships are reduced to instrumental alliances for the fulfilment of individual ends, whereby only choice itself is affirmed as a value.[44] Taylor argues that these sorts of accounts cannot furnish us with the tools for adequately comprehending the nature of shared goods, which are a vital component of the modern political experience.

Taylor wants to distinguish between shared goods and convergent goods (or common interests) since a vast range of human experience is unintelligible without this distinction. He offers friendship and love as familiar examples of shared goods in which the sense of its being shared is essentially bound up with the understanding of the thing in question as good and valuable. The centrality of the idea of recognition or mutual understanding to the goods of love and deep friendship is usefully conveyed in John Armstrong's contrast between 'convivial friendship' and the rarer experience of friendship based upon a deeper congruence of spirit. [45] The latter case draws upon the sense of affinity that emerges from the feeling that 'the other' has some understanding of the often inchoate and incommunicable aspect of our inner experience".[46] It is part of the essential meaning of love or deep friendship that it must be shared by two individuals and cannot be disaggregated into individual goods. Its being shared is precisely what makes it a good.

Taylor argues that goods can be shared among several individuals and are not only

pertinent for intimate life, but also have a broader social significance in structuring relationships, even between strangers.

> "A good is shared when part of what makes it a good is precisely that it is shared, that is, sought after and cherished in common. Thus the inhabitants of a river valley have a common interest in preventing floods. That is to say that irrespective of whether they have some common understanding of it, or indeed, whether they form a community at all. By contrast, shared goods are essentially of a community; their common appreciation is constitutive of them."[47]

Appreciation of shared goods based on common meanings is therefore the defining feature of community for Taylor. A community is more than a mere aggregation of individuals linked by the pursuit of common ends or purposes, and more than a mutually convenient or beneficial relationship. While individuals can be united in the pursuit of an end which each of them desires separately, even perhaps for different reasons, communities depend upon common understandings and intersubjective meanings. Like Sandel, Taylor is a strong advocate of the idea that we are "partly defined by the communities we inhabit."[48] The good of community cannot be described instrumentally in terms of its contribution to an individual's well-being. Equally, communities, including the political community, will be fragile insecure so long as politics concerns itself exclusively with individuals.

In view of this lack of appreciation of shared goods and their role in defining community, standard liberal approaches have been unable to make sense of the politics of his native Canada, Taylor suggests. What has emerged in Quebec is "a politics of defending the [French] language as a common good, considered important enough goal to take priority in some cases over individual goals that would otherwise have been considered beyond legitimate restraint."[49] However Taylor recognises that advocating cultural and linguistic nationalism as politically salient shared goods is ultimately more problematic than describing citizen self-rule as a shared good. He thus draws on the latter to launch his most comprehensive assault on procedural liberalism since he thinks it fatal to both its atomist and purportedly non-metaphysical variants. He appeals to the practice of liberal democracy to advance the claim that the idea of citizen self-rule as a *shared good* is actually implicitly bound up with the self-understanding of liberalism, though it is appealed to only as a *convergent good.*

1.3 Reconciling unity and diversity: theoretical and practical perspectives

1.31 Procedural liberalism: 'political not metaphysical'

Taylor does not make the ontological argument bear the entire weight of his alternative approach to politics. Liberal accounts that subscribe to a negative conception of freedom, and assert the primacy of rights need not appeal directly to the atomist idea of the disengaged self, and therefore do not consider themselves vulnerable to the holist critique. Taylor's distinction between questions of ontology and questions of advocacy forces him to acknowledge the force of a political commitment to procedural liberalism as a feasible model of how rival goods might be adjudicated in conditions of value-pluralism.

Taylor takes seriously Isaiah Berlin's influential formulation of the value pluralist thesis.[50] He credits Berlin with having "tirelessly pointed out the irreconcilable conflict that we frequently face between the goods which we cannot help subscribing to."[51] He goes on, "If this conflict is not felt, it is because our sympathies are too narrow, or we have been too easily satisfied with pseudo-solutions."[52] The value-pluralist thesis not only undermines any attempt to derive political obligation from a single ethical principle, such as a strong commitment to individual autonomy, it also undermines any appeal to a unified political community integrated by a particular conception of the good. In these circumstances, John Rawls' *Political Liberalism,* which adopts a different approach for establishing the priority of the right over the good, one that purportedly does not rely upon contested metaphysical beliefs about the self and the good, may seem appealing.

The shift in approach between Rawls *Theory of Justice* and his *Political Liberalism* offers an exemplary illustration of the attempt to place procedural liberalism on a 'political, not metaphysical' footing.[53] The principles of justice outlined in *Political Liberalism* are understood as being 'free-standing' in view of the fact that their ultimate justification rests on the claim that they are a functional requirement of the political culture which they are intended to serve. In modern diverse societies, so the argument goes, reasonable comprehensive doctrines can endorse, and form allegiance around, the procedural principles of justice.[54]

While Taylor regards the shift in Rawls' approach as being to some extent a consequence of the difficulties that the philosophical arguments run into (presumably offering a

vindication of an ethic of the good life over a procedural ethic) he recognises the appeal of this approach as an attractive response to one of the central difficulties of modern democratic societies namely, finding a feasible model for social co-existence in conditions of diversity. Here the procedural model "starts right off with a big advantage. If in your understanding of the citizen's roles and rights, you abstract from any view of the good life, then you avoid endorsing the views of some at the expense of others."[55]

Taylor finds even this post-metaphysical variety of liberal proceduralism problematic since it translates its eviscerated understanding of freedom as negative freedom into its political commitments by prioritising individual rights at the expense of attending to the social and political conditions that are essential for their maintenance. Just as atomism exaggerates the independence and self-sufficiency of human agents in failing to take account of the linguistic context in which identities are formed, so too procedural liberalism valorises the idea of individual rights without regard for the broader institutional framework which imparts meaning and value to these rights. In this sense procedural liberalism repeats the basic error of atomism. It underestimates,

> "the degree to which the free individual with his goals and aspirations … …. is himself only possible within a certain kind of civilisation; that it took a long development of certain institutions and practices, of the rule of law, of rules of equal respect, of habits of common deliberation, of common association, of cultural self development, and so on, to produce the modern individual; and that without these the very sense of oneself as an individual in the modern meaning of the term would atrophy."[56]

Procedural liberalism fails to adequately appreciate one element of the civilisation that it depends upon for its plausibility in particular. He argues that an important part of political practice in the West has been formed by their experiences as citizen republics[57]. The ideal of citizen self-rule requires modern democracies to promote a deep attachment to the idea of popular sovereignty. Taylor supposes that citizens will experience the sense of solidarity, which emerges from deliberating together about important moral and political questions in an inclusive public sphere, as a shared good. That is, a good whereby they regard the sharing itself as valuable. He appeals to the idea of the public sphere as a means of reconfiguring the ideal of citizen self-rule upon which liberal democracy depends. His account of the public realm is

presented in terms that make the affirmation of distinct identities in the public sphere central for democratic legitimacy.

1.32 The public sphere

Taylor argues that the idea that all social goods are decomposable, that is the idea that they are in the final analysis the goods of individuals, must be dispensed with, not only because ignores important features of ontology, but because it "prevents us from adequately understanding important aspects of modern social and political life."[58] He suggests that it is not easy to imagine a society of strategic individual actors protected by rights, while dispensing entirely with the idea of citizenship.[59] Since the legitimating idea of modern democracy is that it is 'rule by the people', it is vital that citizens recognise and identify with the common agency that is 'the people' and share in the sense of common purpose. Modern society cannot be understood as an enterprise oriented to serving the interests of members, as it is by social contract theorists, and political membership cannot be defined simply in terms of obligation. Rather, political membership or, citizenship, requires some sense of solidarity where "solidarity with my compatriots……is based on a shared fate, where the sharing itself is of value."[60]

Taylor wants to retain the strong liberal emphasis on the protection of rights and liberties and the rule of law while maintaining that liberals have singularly failed to acknowledge that capacities for freedom, and the maintenance of liberal institutions, are dependent upon a high degree of social cohesion. In short, "the modern democratic state needs a healthy degree of what used to be called "patriotism," a strong sense of identification with the polity, and a willingness to give oneself for its sake."[61] Theories that regard rights as possessions of individuals may contribute to a lack of identification with the political community because people come to see society purely instrumentally.[62]

This instrumental outlook contributes to what Taylor terms fragmentation. "A fragmented society is one whose members find it harder and harder to identify with their political society as a community."[63] Furthermore this situation can become self-reinforcing since an agent's sense of isolation is confirmed and reproduced in the absence of opportunities for effective common action. Taylor credits Tocqueville, among others as having recognised two

essential prerequisites of a viable democratic regime. Firstly great material inequalities are unacceptable.[64] And, secondly, a strong common agency is indispensible.[65]

The public sphere is, on Taylor's account, an essential vehicle for this common agency in modern secular societies. He analyses the public sphere initially from the two distinct standpoints of what it *does* and what it *is*.[66] In answer to the first point he posits, "The public sphere is the locus of a discussion potentially engaging everyone (although in the eighteenth century the claim was only to involve the educated or "enlightened" minority) in which the society can come to a common mind about important matters."[67] Its normative status derives from its intrinsic relation to two further ideas. Firstly, it provides the conditions for reaching 'enlightened' opinion which, being maximally rational, can be a responsible guide for government. Second, it represents the exercise of citizen self-rule and therefore issues in opinions which government is mandated to listen to. Taylor thinks that the former aspect has eclipsed the latter in identifying the public sphere's normative status.[68]

In terms of what the public sphere *is*, Taylor describes it as "an agency grounded purely in its own common actions."[69] He suggests that the locus of the common action that defines the public sphere must be 'extrapolitical' if the people are to be the source of political legitimation, in the sense of having the right to "make their own constitution unfettered by their historical political organisation."[70] This leads him to the supposition that 'the people' who are the source of this common agency, must form some sort of society anterior to the boundaries of the state.[71] Sometimes he puts this in stronger terms still suggesting that the people collectively must have a 'personality'.[72]

Modern forms of nationalism have often appealed to the ethnic nation as the substrate for this extra-political unity sometimes, as in the ex-Soviet Union and ex-Yugoslavia, with dire consequences. However, Taylor insists that we can distinguish between 'republican' and 'nationalist' variants of popular sovereignty despite the fact that they are in practice frequently run together.[73] For contemporary diverse societies, it is the republican element that it is crucial to recover on Taylor's view.

The recovery of the republican ideal of self-rule is made possible in contemporary circumstances through deliberation within a public sphere which meets certain conditions of

reciprocity and equality. These include,

> "(a) that the people concerned understand themselves as belonging to a community which shares the same common purposes and recognises its members as sharing these purposes, and (b) that the various groups, types, and classes of citizens have been given a genuine hearing and have been able to have an impact on the debate, and (c) that the decision that emerges from this is really the majority preference."[74]

These conditions ensure that the public sphere operates as a locus of discussion, which engages everyone and gives each a fair hearing. As it approximates these conditions the public sphere has a normative status, meaning that government *ought* to listen to it.[75] It is a space for the formation of enlightened public opinion and not simply the aggregation of interests. In this sense, it can provide the conditions of freedom and foster a sense of belonging in a way that a simple decision procedure could not.

The need to formulate an account of the public sphere arises from the fact that established practices of representative democracy have lost the trust of a substantial portion of the population as legitimate vehicles of social decision. Consequently, even in societies that are stable, and have relatively open and inclusive decision procedures, the Hegelian idea of alienation may be illuminating. Alienation "comes about when the public experience of my society ceases to have any meaning for me."[76] It occurs in contemporary democracies as the idea of self-rule that is deeply imprecated in the self-understanding of these societies, is in danger of being supplanted by the decisions of representatives which appear as little more than "manipulation masquerading as consensus."[77] Taylor locates the source of alienation in institutions and practices which fail to realise those goods that are centrally important to citizens. Arguably he places a disproportionate emphasis on the goods of citizen self-rule and political recognition over issues of material equality, but in so doing he also recoups some neglected themes in political theory.[78]

Taylor argues that the normative commitment to citizen self-rule requires that social decisions are arrived at through inclusive deliberation about matters of common concern. In this sense, Taylor is self-consciously appropriating a central element of the public sphere as Habermas understands it.[79] However, the crucial difference between their two approaches becomes clear on a more detailed analysis of what Taylor thinks is required for the public

sphere's meeting conditions (a) and (b).

Condition (a) requires that the political society understands itself not merely as a collection of individuals, but as a unit with shared purposes. In Taylor's words, "They are not a scratch team picked by history, without anything more in common than the passenger list of some international flight."[80] Condition (b) can barely be understood without the requirement of condition (a) according to Taylor since "the sense that one has been given a fair hearing depends not just on the particular interchange but on the state of the whole relationship."[81] Taylor argues that impaired inclusion can be exacerbated in conditions in which "various groups or classes or subcommunities feel excluded or perhaps on other grounds no longer understand themselves linked with their compatriots in a single unit of decision based upon common understandings."[82] He is suggesting then, that formal inclusion through equal civil and political rights may not be sufficient to ensure a fair hearing for individuals and groups within the deliberative public sphere. Rather, what is needed is a strong sense of identification with the political community which can impart a sense of mutual trust and belonging.

Collective opinion formation which approximates the conditions specified above, has value over and above its cognitive function on Taylor's view, since it is also a process which fosters shared identification with a specific political community within which one is valued as a citizen and an individual. For Taylor, this idea of citizen identification is inextricably bound up with a concept of legitimation. Where identification is felt however, political decisions and policies carry a force for each individual which is quite distinct from her independent judgements as to their worth.[83] On this view, political decisions are binding on account of their arising from a process which all citizens feel included in since it is underpinned by a shared identity which respectfully reflects the identity of each individual. It is clear then that the importance of identification in legitimating rule cannot easily be expressed on the Habermasian model of the public sphere which ties legitimation closely with procedures of rational argumentation.

1.33 Sharing identity space as a response to the democratic dilemma

Democratic societies need a common focus which can serve as the basis of a political identity for its citizens, yet in conditions of diversity this becomes harder to achieve hence, the

appeal of procedural liberalism. The inherent difficulty that attaches to Taylor's alternative model, which closely connects the idea of political citizenship with the requirement of strong identification, is that it appears to generate a paradox.[84] Attempts to foster inclusion through the creation of a common identity may push toward homogenisation and exclusion, undermining the equally important democratic commitments to equality and participation. Rodney Barker describes as 'the gremlin machinery of democracy', the propensity for citizen identification to push toward the symbolic creation of enemies.[85] Taylor is aware of this problem which he terms the 'democratic dilemma'. It is, he thinks, one of the most fundamental problems confronting modern diverse societies. The source of this dilemma is that modern democracies,

> "need strong cohesion around a political identity, and precisely this provides a strong temptation to exclude those who can't or won't fit easily into the identity which the majority feels comfortable with, or believes alone can hold them together…..The need to form a people as a collective agent runs against the demand for inclusion of all who have a legitimate claim on citizenship."[86]

Though procedural liberalism may, at first sight, seem like a good response to this dilemma, it is in fact limited. The injunction to bracket commitments that are central to a person's self understanding as a prerequisite for inclusion in the democratic community is likely to contribute further to fragmentation and alienation, according to Taylor, since it allows only those that are willing to bracket their deeply cherished commitments to participate in political deliberation.[87] In abstracting from questions of value and identity procedural liberalism aims to rise above the fray of the conflicts engendered by moral and cultural pluralism, assuming that we can uncontroversially distinguish neutral procedures from substantive goals. This, according to Taylor, is simply not a viable solution to the situation to current political dilemmas since it circumvents the need to share identity space, which is the key to responding to the democratic dilemma creatively.

The idea of sharing identity space follows from the recognition that,

> "Political identities have to be worked out, negotiated, creatively compromised between peoples who have to or want to live under the same political roof (and this co-existence is always grounded in some mixture of necessity and choice). Moreover, these solutions are

never meant to last forever, but have to be discovered/ invented anew by succeeding generations."[88]

Using the spatial metaphor of a shared identity space is particularly effective in conveying the image of the hermeneutic mediation of identities that Taylor has in mind as the key to reconciling unity and diversity in an inclusive public sphere.

Since Taylor insists that identities are not only cognized but also constructed through dialogue, he can also appeal to the idea that in the process of dialogic exchange, self-understandings can be creatively re-interpreted and reconfigured.[89] This confers on democratic deliberations a transformative potential which accounts of liberal democracy rooted in a conception of the self as pre-politically constituted cannot adequately grasp.[90] Taylor writes, "The attempt to understand leads, if it is successful, to a "fusion of horizons," a broader set of basic terms in which my identity can figure undistortively as one possibility among many."[91] Taylor proposes that being forced to see my own narrow horizon as part of a broader picture, I am no longer tempted to colonise the identity-space which I must necessarily share with others. This provides, he thinks, the conditions in which diverse voices will be heard and the assurance that "we shall continue to listen to one another in the future."[92] It provides for unity of purpose in the midst of deep diversity.

However, Taylor's particular construction of the public sphere appears to be strongly influenced by a Herderian optimism about the possibility of achieving harmony amidst diversity. He appears to regard deliberation not only as a process of self-transformation in respect of individual identities, but also as a process that inevitably produces harmonization between distinct identities. He appeals to the Herderian idea of "humanity as something to be realised, not in each individual human being, but rather in a communion between all humans."[93] Since for Herder, diversity is unity in becoming, living in the midst of diversity is highly preferable to the tensions engendered through the imposition of uniformity. He therefore prefers a politics of co-operation to a politics of strained consensus.[94]

Just as Herder's politics of co-operation is ultimately stabilized by appeal to "an article of faith, rooted in his analogy from nature, which posits into 'the nature of things' a tendency working for unity amidst diversity,"[95] a similar faith seems to underlie Taylor's account of shared identity space In Taylor's case, this faith is perhaps borne out by his experience of

politics in his native Canada in which a high degree of diversity and discord has subsisted alongside relative peace and prosperity for generations. Taylor is preoccupied in particular with the cultural and linguistic nationalism of his native Quebec which has resisted the assimilationist pressures of 'the rest of Canada'.

1.34 The Canadian context

During the 1960's Taylor was actively involved in Canadian political life with the New Democratic Party in Quebec and ran as a candidate in four federal elections.[96] Laforest makes a clear connection between these political experiences and Taylor's later philosophical work suggesting that, "no overall interpretation of Charles Taylor's philosophical work will be able to avoid a study of its roots in the dilemmas of the society to which he belongs."[97] The issue of constitutional reform has been an ongoing national concern. It has been said of Canada that, "No other country in the world today has been engaged so intensively, so passionately or for so long in searching for the conditions of its continuing unity."[98] Much of the focus of these constitutional debates has centred on the place that Quebec should occupy within the Canadian federation, though recently attention has shifted also to the accommodation of cultural groups which are not territorially concentrated.

Taylor argues that the 1982 Charter of Rights and Freedoms, which like the American Bill of Rights enshrines a number of individual rights and freedoms, has to a large extent come to define the political identity of 'Canada outside Quebec' (C.O.Q)[99]. But, Taylor argues, the Charter cannot invoke the allegiance of Quebeckers since its provisions run counter to their fundamental goal of preserving their distinct culture and French language. Quebec cannot accept the procedural model which C.O.Q has come to embrace since, "it is axiomatic for Quebec governments that the survival and flourishing of French culture in Quebec is a good."[100] This makes for a great deal of constitutional wrangling and political mistrust, as became evident with the unfolding political drama that surrounded the Meech Lake Accord.

Meech Lake was intended to supplement the Charter of Rights and Freedoms by formally recognising Quebec as a 'distinct society' within Canada. So fundamental had this aspiration become for the province of Quebec that, "for many Quebecois, the rejection of

Meech entailed the rejection of Quebec."[101] Having had their hopes for the recognition of their collective aspirations dashed, Quebec became still more resolute in its demands, and pressure grew for reforms far more wide-ranging than had been embodied in the Meech Lake Accord. The question of Quebec's position within Canada became powerfully psychological and symbolic.[102] Taylor observes, "with the demise of Meech something snapped."[103] Prior to this issues of recognition were much more peripheral since economic growth and cultural renewal had fostered a new found confidence for Quebeckers. "After all if you know your own worth, why do you need the other."[104] However now that hopes for recognition were raised, Quebec would no longer accept a constitutional structure that didn't recognise their national goals. Canadian politics became extremely polarised.

Taylor speaks of the two 'solitudes' occupied by Quebeckers and C.O.Q. He argues that these solitudes generate a great deal of misunderstanding and can only be overcome by uniting around common purposes one of which must be the building of a bi-cultural society.[105] Only a political commitment to common projects informed by intersubjective understandings and shared meanings can, according to Taylor forge a political identity. He upholds the fundamentally republican line of critique in arguing that rights based liberalism ignores those inter-subjective meanings which form the backdrop of social and political action. Conceiving of politics in purely instrumentalist terms, it mistakes diversity for disagreement and unity with consensus. He conceives his own conception of politics as allowing for the co-existence of a high degree of intersubjective understanding and political commitment on the one hand and profound cleavage on the other.[106]

If Canada is to make its diversity a source of richness, he argues, its many different groups comprising citizens with different backgrounds and cultures must be prepared to "learn from each other and be enriched by living side by side."[107] In order to put this experiment of a truly dialogical society into action we must dispense with liberal pluralism and the politics of consensus. "In Canada polarized politics is more than a good; it is an essential condition of a more meaningful unity, and perhaps even survival."[108] Allowing for "a much more meaningful political dialogue between genuinely different views."[109] However this can only be realised if the political arena is conceived of in expressive rather than purely procedural terms and if political

commitment extends to the ambition to negotiate identity related issues within the political arena.

2. THE POLITICS OF RECOGNITION

It is in Taylor's influential essay *Multiculturalism and the Politics of Recognition* that the political implications of his alternative vision of liberalism, one that attempts to take on board the need to share identity space, are spelled out most explicitly. Taylor is sympathetic to the idea that established cultures should be allowed to preserve and transmit their cultural heritage to future generations even though in some cases this may compromise individual freedoms, and violate principles of non-discrimination. He aims to avert the potentially illiberal consequences of this by distinguishing between fundamental rights and immunities. He suggests also, that the equal worth of cultures should be publicly affirmed. Among other things, this may require re-thinking the educational curricula in order to give greater prominence to non-Western sources of literature and art, for example.

I will suggest that the idea of recognition is a useful analytical device for elucidating some of the important features that underlie the otherwise disparate claims of marginalised groups. However, as Taylor gives content to this analytical model, he incorporates into it certain features which present difficulties at the level of practical politics. Understandably, the point that has received most criticism from liberals is the attempt to assert cultural survival as a collective right which can on some occasions outweigh individual rights. This idea remains too vague on Taylor's formulation to reassure the many liberals for whom this represents a challenge of the most fundamental order to the defining core of liberalism, its unbending commitment to individual autonomy.

More damaging still however, is the claim that the dilemmas raised by this attempt to translate the politics of difference into a model of practical politics are consequent on the fact that the theoretical model is itself shot through with ambiguity and inconsistency. Most crucially, Taylor conflates the quest for individual self-realisation with the project of collective survival, which rests on an untenable understanding of cultures as fixed and bounded entities.

My purpose is not to offer a critique of this account from the point of view of an alternative understanding of cultures as fluid, contested and created, but to suggest that the model of culture most consistent with Taylor's account of the public sphere as a shared identity space is one which can take into account different ways of relating to cultural heritage. On this analysis, Taylor's account fails on its own terms and can be redeemed only through a faith in a teleological vision which affirms an impetus to unity working through being.

2.1 The concept of recognition

Taylor's influential essay "The Politics of Recognition" has been of central importance in solidifying the view that the concept of recognition might usefully clarify debates about identity and difference[110]. The recognition thesis turns on the belief that,

> "Our identity is partly shaped by recognition or its absence, often by the misrecognition of others, and so a person or a group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves"[111]

This understanding of the concept of recognition is undoubtedly shaped by the famous example of recognition/ misrecognition expounded by Hegel in his discussion of 'Lordship and Bondage'. Here, Hegel traces the development of self-consciousness and freedom in the struggle for recognition between two consciousnesses. The two consciousnesses submerged in the immediacy of life, each extend the objectifying attitude with which they relate to a world of things, to their encounter with the other. A struggle ensues which can only escape the unsatisfactory intermediate of subjection and domination through some kind of mutual recognition between equals.[112]

Taylor takes from Hegel the idea that interpersonal recognition is 'a vital human need' which can only be realised in a regime of reciprocal recognition among equals. He suggests that this need has two distinct aspects in modern conditions, which correlate to two major sociological shifts associated with disintegration of socially defined roles and identities. Firstly the notion of *honor,* which was of necessity intrinsically linked to inequalities, is superseded by the concept of equal dignity which affirms the equal integrity of each citizen and is an essential component of democratic culture. "Democracy", he writes, "has ushered in a politics of equal

recognition, which has taken various forms over the years, and has now returned in the form of demands for equal status of cultures and genders."[113]

The second feature of modern culture to which Taylor alludes is the "massive subjective turn"[114] attached to an ideal of authenticity, which "calls upon me to discover my own original way of being"[115]. Although this second feature stems also from the collapse of hierarchy, it is not conceptually related to the birth of democratic society, since even in a democratic culture identity may still conceivably be defined by social role whereas one of the requirements of authentic identity is that it be inwardly generated[116].

These two themes of equal dignity and authenticity, which emerge from the collapse of hierarchy, are each developed and expanded in contemporary societies. Firstly, as democratic struggles have broadened to the domestic and cultural spheres, the ideal of equal dignity has come to be associated with demands for equal status of cultures and genders.[117] Secondly, the ideal of authenticity undergoes a reformulation in modern conditions as the monological formulation associated with Herder is superseded in modern times by an appreciation that an individual's identity and self understanding is informed by a dialogical community of intersubjectively shared meanings.[118] The appreciation of the extent to which my own *individualized* identity crucially depends upon my relations with others imposes a new requirement on recognition, which stems from a commitment to equal dignity. It requires that we foster particularity since, "we give due acknowledgement only to what is universally present –everyone has an identity –through recognising what is peculiar to each. The universal demand powers an acknowledgement of specificity."[119] This has come to be more fully appreciated as the ascriptive identities that were tied to social hierarchies have fallen away, however it is in these same circumstances that attempts to achieve recognition can fail.

Taylor is suggesting that a person's identity is not inwardly generated but socially constructed and that this is socially and politically significant. The idea that interpersonal relations are always a potential site of alienation and self-loss, while by no means original, is a useful starting point from which to consider the dilemmas faced by contemporary political theory. Preliminarily I want to draw attention to three analytical advantages of the recognition model. The first is that it broadens our understanding of what constitutes injustice and

oppression. Proponents of the recognition approach suggest that non-material sources of injustice are as politically significant as material ones, and that it is incumbent upon the state to provide for a fair distribution of social and symbolic capital.[120]

Opponents of the recognition approach suggest that it is in fact detrimental to the traditional emancipatory agenda of leftist politics since it shifts attention away from principles of substantive equality and violates the principle of non-discrimination.[121] However while some have suggested that 'identity politics' has effectively eclipsed 'class politics' most have been concerned with understanding the relationships between them.[122] So much so that Isin and Wood identify *the* political question of our times as being "how to reconcile cultural politics *and* redistribution in a theoretically adequate, empirically sound, politically effective and ethically defensible way."[123]

Whatever the links between economic and cultural forms of oppression in practice, the important claim made by the advocates of recognition is that the two are qualitatively distinct and so are not assailable through the same forms of remedial action. Axel Honneth describes the normative core of the theory of mutual recognition as follows, "the integrity of human subjects vulnerable as they are to injury through insult and disrespect, depends on their receiving approval and respect from others."[124] Misrecognition can disrupt a person's practical relation to self along one or all of three crucial axis relating to, self-confidence, self-respect and self-esteem[125]. Having a psychological basis, struggles for recognition are not assimilable to struggles over resources. Recognising them as qualitatively different does not thereby entail denying that struggles for recognition will often have a material dimension. It simply renders advantageous the propensity to make analytical distinctions between these two modes of emancipatory struggle.[126]

The second advantage of the recognition approach is that it re-orients the debate surrounding cultural claims from a paradigm which aims to incorporate minorities to one which aims at dynamic renegotiations of all identities within the public sphere. Since misrecognition draws to the fore the disjunction between a person's sense of self and its external representation, it urges us to approach others according to their own self-understandings and, in the process to re-evaluate our own understandings. Thus Taylor envisages a multicultural

society which is at home with its diversity to be one in which a 'fusion of horizons' will transform the standards of judgement and evaluation of all parties in the intercultural dialogue.[127] The recognition approach can therefore check the universalising zeal of modern liberalism sometimes associated with its imperialist past and considered an enduring source of cruelty.

Thirdly, the recognition approach renders cultural conflict non-reducible to moral conflict and points to the discontinuities between cultural pluralism and other, already familiar forms of pluralism. Liberal pluralism and principles of toleration have usually been formulated with issues of moral and religious pluralism in mind.[128] Whereas these forms of pluralism pertain to voluntary associations or as Sheldon Wolin pithily puts it, "with identities we are not stuck with",[129] new forms of pluralism focus, in contrast, on "involuntary associations (e.g., of color, gender, sexual preference, etc.) of markings that stick."[130] Taylor's intercultural approach to the deliberative negotiation of identities is distinct from other influential dialogic approaches, notably Habermas's, but also that advanced by Gutmann and Thompson in their book '*Democracy and Disagreement'* since, it does not regard moral or religious conflict as the sole impetus of dialogue and democratic negotiation.[131] On this account democracy is facing genuinely new dilemmas, not just old ones in a new forms.

It is a consequence of these analytical advantages that the discourse on 'recognition' has proved to have unshakeable currency in debates surrounding 'the politics of difference'. It has an indispensable evaluative currency and diagnostic appeal for gauging shifts in the inclusion/exclusion dynamic. It brings a new form of second-class citizenship into view by pointing to the fact that political and social structures which are ostensibly neutral may in fact reflect the values and goals of the hegemonic culture, and so will lead to the misrecognition of other groups.

However Taylor's approach also raises a number of difficulties. *Firstly,* having introduced misrecognition as a useful benchmark of democratic exclusion, we need to consider what forms Taylor thinks 'recognition', and so the constructive project of democratic inclusion, should take. *Secondly,* having alluded to the need to foster particularity Taylor is obviously committed to saying something about the kinds of particularity he has in mind. *Thirdly,* we

need to consider the relationship between these first two issues. That is, we need a theoretically integrated perspective which allows us to draw links between modes of distorted recognition, misrecognised constituencies, and constructive remedies that will foster greater inclusion. It is my contention that Taylor is vague in his response to the second issue and fails to address the third issue at all. To this extent, Taylor's account of recognition is problematically indeterminate. This is particularly awkward given that his response to the first issue includes a range of proposals, among which are included quite radical measures which many liberals have viewed with deep suspicion.

2.2 Recognition and inclusion

The conditions of providing for the two forms of recognition which Taylor identifies rest, he thinks, with two modes of politics, the politics of equal dignity which emphasises universal rights and, the politics of difference which emphasises distinctness. Although they are both grounded in the notion of equal respect (the politics of difference being powered by the acknowledgement that *everyone* should be recognised for their own distinct identity) they sometimes come into conflict.

> "For one, the principle of equal respect requires that we treat people in a difference-blind fashion. The fundamental intuition that humans command respect focuses on what is the same in all. For the other, we have to recognize and even foster particularity."[132]

The charge advanced by proponents of a politics of difference is that the first model of politics has predominated, imposing a universalist mould which can only be homogenising and distorting given the need for recognition of the second form. Worse still, notices Taylor, the charge made by multiculturalists is typically stronger still. "The claim is that the supposed difference-blind principles of the politics of equal dignity is in fact a reflection of the hegemonic culture. As it turns out, then, only the minority or suppressed cultures are being forced to take alien form."[133] The features identified as being common to all human beings are in fact abstracted from the life-world of the hegemonic culture.

Taylor argues that the politics of difference powers legitimate political claims for the acknowledgement of particularity. It should be recognised that Taylor's model is an attempt to throw some normative weight behind constitutional changes already underway in his native

Canada. In order to preserve the integrity of the French language, Quebec has passed a number of laws relating to commercial signage (which must be in French) and the provision of public education (francophone immigrants must send their children to French speaking schools). Measures intended to secure the survival of *la nation canadienne-francaise* have already compromised the politics of equal dignity, as this is outlined by Taylor, placing the onus of argument increasingly onto those who would deem these changes unacceptable.

One possible response is to claim that the politics of difference is a betrayal or reversal of the principle of equal dignity and the commitment to non-discrimination which has proved its emancipatory potential in contemporary societies. However, in an inspired move, Taylor argues that the politics of difference actually grows out of and is required by the politics of equal dignity which is itself powered by the acknowledgement that *everyone* should be recognised for their own unique identity. In the case of the politics of equal dignity, what is singled out as worthy of respect is some universal human potential; a capacity that is thought to be central to human dignity and which all human beings share. For Kant, this was "our status as rational agents, capable of directing our lives through principles."[134] Something like this notion of autonomy, Taylor argues, has underpinned our intuitions about equal dignity ever since. However, in the case of the politics of difference, a related and equally important capacity is at stake according to Taylor, namely "the potential for forming and defining one's own identity, as an individual and also as a culture"[135].

Hence, in taking a step back from these apparently conflicting models of citizenship, the politics of equal dignity and the politics of difference, Taylor is able to maintain that the moral intuitions which inform these two models, in fact spring from the same source. This being so, he thinks that we should aim at some kind of reconciliation between these two conceptions of citizenship. His own response takes the form of a politics that is willing to weigh the importance of certain forms of uniform treatment against the importance of cultural survival and opt sometimes in favour of the latter.[136]

Although Taylor regards cultural survival as a collective good which in some cases must take priority over individual goals, the politics of difference is, he suggests, a liberal politics in virtue of its commitment to the protection of fundamental rights and principles such as rights to

life, liberty, due process, free speech and *habeas corpus,* which no collective goals can be allowed to circumvent.

What Taylor's preferred mode of liberal politics cannot be, and he is quite explicit here, is a meeting ground for all cultures. Rather it is "a political expression of one range of cultures, and quite incompatible with other ranges."[137] For this reason Taylor is rightly cautious, of the idea that we should affirm the equal value of cultures as a matter of right[138]. Instead we should, he suggests, approach other cultures with the presumption of equal worth[139]. This is something like an 'act of faith' based upon the assumption that "all human cultures that have animated whole societies over some considerable stretch of time have something important to say to all human beings."[140] On the basis of this presumption a range of measures aimed at raising the profile of marginalised groups in the public realm, such as broadening educational curricula, may be sanctioned.

2.3 Recognition and the problem of indeterminacy

Having sketched the political forms that Taylor envisages 'recognition' may take (so outlining Taylor's response to the first issue) we may now ask which groups Taylor perceives as having legitimate claim on the modes of recognition he has outlined (the second issue). At the beginning of *The Politics of Recognition* he tells us that the need for 'recognition',

> "is *one of the driving forces behind* nationalist movements and politics. And the demand *comes to the fore* in a number of ways in today's politics, on behalf of minority or "subaltern" groups, in some form of feminism and in what is today called the politics of "multiculturalism."[141] (Emphasis added)

He evidently sees his account of recognition as having currency for dealing with a whole range of groups and demands which are often referred to collectively as 'new social movements'. However, Taylor's choice of expression in the quote above, may suggest that he thinks the nature or scope of demands presented by nationalist minorities for recognition on the one hand, and those presented by 'subaltern' groups on the other, are importantly different. Somewhat disappointingly however, Taylor does not attend to making any distinctions between these constituencies again during the course of his essay.

What is suggestive here though, are the examples that he chooses for drawing out the

implications of his theory of recognition. When talking about the right of established cultures to preserve and transmit their distinct cultural heritage he draws on the example of Quebec a national and linguistic minority, and when making the case for broadening educational curricula to raise the profile of marginalised groups he draws on examples from the 'subaltern groups' such as women and African-Americans.

Taylor does not clearly distinguish between different measures for enabling political recognition and their applicability to different types of groups (the third issue). In particular, he does not make explicit whether he considers measures aimed at cultural survival appropriate only for national minorities, though the examples he chooses seem to make it seem probable that he does. This is borne out by his reflections on Canadian politics in which he claims that political allegiance and commitment may be fostered in contemporary Canada around the definition of itself and goals as '*bi*-cultural.' He asserts that one of the common purposes of some 'considerable moment' in contemporary Canada is "the building of a bicultural society ….in which *both* groups can learn from each other and be enriched by living side by side."[142] (Emphasis added). Taylor's description here fairly evidently privileges Quebec's distinct identity over other salient forms of difference. It seems significant to note at this point that it was an aboriginal leader who drove the final nail into the coffin of 'Meech Lake' annoyed by its concessions to Quebec's nationalist claims[143].

It seems that Taylor's work may reflect what Bhikhu Parekh has identified as a 'long-familiar liberal tendency' to "draw a sharp contrast between ethnic groups and nations and privilege the latter."[144] Unlike Kymlicka, who justifies the different forms of cultural rights which he thinks should devolve on national minorities and 'subaltern' groups on the basis that they reflect each group's sense of legitimate expectations, and take on board the political realities of liberal states, Taylor makes no justification of this kind.[145] Instead the issue of which groups may legitimately claim rights to survival is left ambiguous.

3. CRITICAL PERSPECTIVES

3.1 Cultural authenticity and its liberal critics

Liberals have pointed to some of the potentially deleterious consequences of surrendering the liberal commitment to state neutrality in order to enable the pursuit of collective goals. Fears are heightened by the indeterminacy of Taylor's account; its failure to delineate which kinds of groups ought to be afforded what forms of recognition, and within what limits. It is argued that a politics of identity gives rise to intractable struggles, and introduces into the public sphere irreconcilable demands that are likely to contribute to polarisation and conflict as opposed to stemming the tide toward fragmentation. Concerns have also been raised about the potential costs to individuals of using state power in support of collective goals, without providing clear principles that could mediate between the claims of individuals and groups in cases of conflict.

Taylor's uncompromising commitment to collective goals can be apprehended more fully through a comparison of his approach to cultural accommodation with that of Will Kymlicka, which was considered in some detail in Chapter One. Taylor argues that the politics of equal respect "can't capture the full thrust of policies designed for cultural survival,"[146] which, "actively seek to *create* members of the community."[147] On this score he is equally dissatisfied with Kymlicka's attempt to defend minority rights on the basis of a refined view of liberal neutrality.[148] The problem with Kymlicka's approach, from Taylor's point of view, is that it focuses on "*existing* people who find themselves trapped within a culture under pressure, and can flourish within it or not at all. But it doesn't justify measures designed to ensure survival through indefinite generations."[149]

Kymlicka fails to acknowledge that the aspiration to promote and carry forward one's cultural heritage might also be understood as a strongly valued option within the context of the life project of an individual or group, which the state therefore has a duty to respect. Taylor argues,

> "Political society is not neutral between those who value remaining true to the culture of our ancestors and those who might want to cut loose in the name of some individual goal of

self-development."[150]

While Kymlicka suggests that most people relate to their culture as a set of options from which an individual has a right to choose, Taylor thinks the idea of culture as a shared good, which members seek to perpetuate as an important component of self-realisation, is an important one for modern states. Kymlicka concedes that some groups may understand their culture as "embodying a sacred trust which members have a duty to maintain and uphold", but he regards this conception as a marginal one in most Western states, and therefore as peripheral to the task of developing a viable liberal democratic model of cultural accommodation for western liberal democracies.[151]

Taylor's proposed alternative to Kymlicka's model of multicultural citizenship is one that he thinks can sustain both individual and collective goals, but is decidedly liberal in light of its unbending commitment to fundamental rights and freedoms. Taylor proposes that liberalism should be understood as a 'fighting creed' since this provides greater resources for liberals to deal with the sense of marginalisation among those who may not share its fundamental commitments. That liberalism is supported by strong values of its own and so cannot be the meeting ground for all cultures, or even those that co-exist in western liberal societies, is amply demonstrated by the controversy sparked by the publication of Salman Rushdie's *Satanic Verses.* Liberals, Taylor thinks, need to find some way of upholding fundamental values in the face of opposition from Islamic and other religious groups who may not accept the complete separation of church and state.[152]

The wrong way to go about this is to appeal to the principle of a secular state as a basic and neutral principle of liberal society. On this view no conversation is possible with those upholding a religious outlook unless they are willing and able to bracket their commitments to a faith that matters deeply to them.[153] Religious outlooks must be treated with sensitivity and included in the ongoing dialogue of a political society, but in terms of the concessions made to religious and other groups on the basis of their sincerely held beliefs liberalism 'has to draw a line'. Taylor envisages variations in the application of schedules of rights, which might include for example immunities and exemptions, but no variations will be possible "where incitement to assassination is concerned."[154] Even at this base-line however, Taylor envisages an assertive

liberalism which defends its substantive commitments against specific challenges rather than simply stipulating these as inanimate and immovable landmarks that map out the fixed topography of liberal constitutionalism.

Kukathas has argued that the kind of sustained introspection about the character and identity of liberal society which these kinds of substantive judgements over specific issues would entail, leads liberalism into dangerous territory by encouraging the kind of conflicts which are in practice difficult or impossible to resolve.

> "If the identity of the society becomes an issue—one that cannot be regarded as trivial and, so, a matter of indifference – conflict over it can only become more bitter, particularly since it will be regarded in terms of winners and losers."[155]

Kukathas argues that in comparison with political conflicts that focus on questions of material distribution, conflicts over issues of identity are particularly intractable. Kukathas' central proposition is that granting recognition is always likely to detract from peace and stability as opposed to promoting it. While this objection appears vulnerable to refutation in the light of counter-examples,[156] it does raise an important point that has been touched on also by other commentators.

In contemporary societies, individuals subscribe to different value systems and uphold different, and sometimes irreconcilable, beliefs. If recognition implies not simply tolerating, but positively valuing different identities, problems of compatibility seem to emerge.[157] Moreover, some of these belief systems may claim superiority over others. In these circumstances it seems "incoherent to speak of celebrating all differences simultaneously."[158] Seyla Benhabib points to the 'idealism' of a picture in which the lifestyles and personal projects of different individuals and groups are combined into a 'seemless web of interlocution', and reciprocal moral claims to self-realisation are respected equally.[159]

However Kukathas is concerned not just with the idealism of the picture, but also with its tendency to contribute further to fragmentation and prompt a rapid descent into the politics of interest. The idea here is that identity struggles are not so much represented by a politics of recognition as created by it.[160] He insists that "Groups do not always demand recognition because they exist; sometimes they exist (at least in their particular sizes and characters) because they have been granted recognition."[161] He has in mind in particular politics of

affirmative action in the U.S.A. The concern raised here is that with the passage of time, it may become unclear whether policies of affirmative action pick out identities that accurately represent authentic self-understandings or, lead people to adopt identity markers as a means of furthering their own particular interests. The politics of recognition, far from being a means of overcoming fragmentation may actually contribute to it as a 'politics of enclave' develops "whereby a plethora of identity groups fall into jealous pursuit amongst themselves, guarding their own particular interests rather than cultivating the common interests they may share as oppressed groups."[162]

In practical terms, Kukathas thinks, "Attempting to grant recognition to those who demand it… … is almost always dangerous."[163] It is likely, he thinks, to fix identities and stymie cultural development and flexibility. Kukathas argues that a politics of recognition is only feasible on the assumption that cultural groups are stable fixed entities that pre-exist policies that aim at their protection.[164]

A number of commentators have pointed to the practical difficulties that a politics of recognition might produce, and this propensity to 'fix' identities is a foremost concern, not only in view of the fact that it may encourage a crude politics of interest, but also because it may oppress group members. Aylet Shachar has alluded to the problem of 'multicultural vulnerability'.[165]This is the idea that vulnerable members of cultural groups are at risk of having their individual well-being undermined by well-meaning attempts to accommodate the practices of the cultural groups to which they belong. Women within patriarchal societies, for example may be at particular risk. As we have seen, on Taylor's understanding, the politics of difference grows out of the politics of equal dignity, since it is powered by the acknowledgement that *everyone* should be recognised for their own unique identity. For this reason a liberal politics must ensure that remaining 'true to ones culture' does not impose undue costs upon individuals, or run counter to their own self-realisation. A viable politics of recognition must be attentive, not only to power relations *between* minority and dominant cultures, but also to those *within* the minority culture. Resources must be made available for challenging authoritative descriptions of group identity which may conceal underlying conflicts about the nature of that identity.

Benhabib points out that individual and collective goals will not always run in tandem, and where the inevitable conflicts between individuals and movements searching for recognition arise, a "certain ordering of our principles becomes necessary."[166] She illustrates this point with an example drawn from Canada's accommodations of First Nations. The practice, established in the India Act of 1876, of refusing to recognise the right of woman who outmarry to transfer citizenship rights to their spouses has angered many women's groups, and seems to run counter to the Charter of Rights and Freedoms 1982 which grants women equal civil and political status with men. Benhabib then poses the question.

> "Faced with the claims of first nations, and in particular of their male leaders, to preserve their authentic customs, and the demands by women of First Nations for full equal civil and political rights, what would be Charles Taylor's position?"[167]

In raising this question, Benhabib not only draws attention to the inadequacy of Taylor's 'Politics of Recognition' to provide guidance as to how these practical situations are to be negotiated on the ground, but also to his neglect of the internal heterogeneity of cultures, and his failure to consider in detail the cultural claims of indigenous peoples. She argues that in promoting the idea of cultural survival, Taylor seems to be subscribing to an untenable essentialist view of cultural communities which views them as discrete entities "frozen in time, impervious to external influences, homogenous and without internal dissent."[168]

It seems probable that Taylor appears unduly perplexed by the problems of multicultural vulnerability and the charge of 'essentialism' largely because his foremost preoccupation is with the politics of Canada and the issue of the cultural survival of Quebec. In the case of *la nation canadienne-francaise* the problems of 'multicultural vulnerability' do not raise concerns of the magnitude that they might in relation to other cultural groups; groups which have strong patriarchal or fundamentalist religious commitments for example. Although the language laws in Quebec do impose real restrictions upon individual choice, they do not pose any threat to those rights and immunities which Taylor defines as fundamental, such as freedom of speech and *habeas corpus.* Additionally, being a linguistic minority, the identity of *la nation canadienne-francaise* can appeal to a relatively stable and fixed identity that demarcates it from the majority culture in a way that does not depend upon potentially contested authoritative descriptions.

Taylor is not insensitive to the potential difficulties that his far-reaching proposals for cultural survival may engender. He insists that individuals do not have an automatic right to those structures within which they articulate their self-expression. A *prima facie* injunction to respect all cultures would be patronising and worthless. Rather the 'presumption of equal worth' is merely the starting point for an evaluation of the substantive content of a culture. He proposes a model of cultural evaluation which draws on Gadamer's idea of a 'fusion of horizons' conducted in a spirit of generosity and hermeneutic openness whereby a judgement is reached partly through the transformation of the standards of evaluation. This is made possible by 'new vocabularies of comparison' that arise in the course of intercultural negotiations.

3.2 Recognition and cultural evaluation

Taylor's attempt to adjudicate claims for recognition by appealing to the idea of cultural evaluation is then, rather vague and inconclusive, since it does not provide clear principles that can be appealed to as a basis for authoritative judgements in concrete cases. This is not, of course, a decisive criticism of the general approach whose aim it is to circumvent appeals to abstract universal principles as the sole criterion of justice. Kukathas's claim that the politics of recognition almost always leads to damaging political consequences must be based on an empirical claim that it is hard to either uphold or reject. Furthermore, the problems alluded to above must be weighed against the difficulties that attach to neutralist liberalism and the principle of non-discrimination, in potentially assimilating groups to a homogenous culture.

I spelled out earlier three advantages that Taylor's approach has over neutralist liberalism in virtue of its using of the concept of recognition to analyse and diagnose democratic exclusions. However the notion of recognition as a diagnostic tool must be kept distinct from the idea of recognition as a constructive project for fostering inclusion. To recap, as a diagnostic tool the advantages of the recognition approach are that it acknowledges that democratic exclusions can have a non-material element, that cultural pluralism is not equivalent to moral pluralism, and consequently, that principles of redistribution and toleration will not alone be sufficient to remedy misrecognition and foster inclusion. Rather what is required is an approach that allows for the dynamic renegotiation of identities in the public sphere. However, these insights do not entail that the response to misrecognition must necessarily take the form

of affirming the worth of distinct cultural groups. The diagnosis of identity-based harms is conceptually distinct from an evaluation of the worth of 'the other'. Furthermore, in most cases an affirmation of worth is not required to remedy this specific form of injustice.

In common with many members of the academy who have evaluated these new cultural understandings of oppression, Taylor becomes narrowly focused on the epistemological implications and philosophical status of these claims and counter claims.[169] The pressing issue of marginalisation is subsumed under the philosophically interesting but politically peripheral question, of how incommensurable goods can be evaluated in circumstances of value pluralism. This emphasis leads to the idea that the political accommodation of different ways of life is dependent upon cognitive judgements based on intercultural negotiations conducted in a sprit of generosity, sustained presumably, by the initial supposition that each established culture has some worthwhile contribution to make. While this enterprise has its value, the narrow focus of debates over multiculturalism conditioned by this view leads attention to be deflected from the pressing issue of power. Yet it is in contesting entrenched power relations that some of the most pressing claims for recognition present themselves.

For example, while it is evidently the case that the aboriginal cultures of Australasia and North America have the import and value that Taylor thinks must inhere within any cultural tradition that has endured for tens of thousands of years, the injustices and dispossession of these groups cannot be straightforwardly attributed to a denial of this worth. Hence recent projects to teach Australian school children about aboriginal culture and history have been formulated primarily to meet the pressing practical aim of alleviating economic and social hardships and "eradicating the sense of dispossession felt by so many Aborigines, who are ill equipped to be successful in the society foisted upon them."[170] The goal of hermeneutic openness to different cultural traditions is more a desirable consequence of these measures than it is their primary objective.

3.3 Recognition and democracy: the stabilising function of teleology

Taylor's account of recognition has proved to have unshakeable currency in debates about identity and difference by providing a new vocabulary of democratic exclusion, but the politics of difference, as a constructive response to this exclusion is more problematic.

Furthermore, it is not entailed by the account of recognition that I have suggested is valuable, but actually draws upon a much more problematic element of Taylor's political theory, that is, his account of democratic legitimacy.

Taylor is concerned with constructing a common citizen identity which can be a focus of loyalty and identification. This requires, he thinks, that citizens share a sense of common purpose that is inscribed by goods and values to which citizens can feel allegiance. Deontological accounts which attempt to construct a viable political identity around principles of right, allowing individuals to pursue their own ends within a system of rights, are not sufficient to secure this goal of self-mastery, since citizens would be related to the society only externally. He writes "It is difficult to conceive of a widespread acceptance to abide by the rules and outcomes of democratic decision among people who had no bond whatever to each other. Only those with a supermuscular Kantian conscience would be willing to knuckle under to a majority with which they felt no links."[171] As we have seen from his reflections on the nature of the public sphere, he thinks that citizens must feel strongly identified with the state in order to abide by the rules and outcomes of democratic decision making.

In the previous chapter, it was noticed that Taylor's ontological vision leads him to an appreciation of the plural, and sometimes competing goods which exact allegiance in modern societies. His preferred definition of a liberal society then, is "one which is trying to realize in the highest possible degree certain goods or principles of right."[172] But in modern pluralistic societies finding a singular authentic self-definition will be difficult.[173] Not only will it be difficult, it can also be a powerful drive toward exclusion if the political identity is defined in excessively narrow terms and fails to reflect all of those with a legitimate claim to citizenship. In these circumstances, Taylor thinks identities have to be creatively negotiated in a shared identity space whereby solutions are achieved but with the awareness that they "are never meant to last forever, but have to be discovered/ invented anew by succeeding generations."[174] I want to suggest that there is a potential tension between the aspects of 'discovery' and 'invention' that is glossed over in this formulation. Furthermore, the 'discovery' pole of this dichotomy cannot be easily combined with Taylor's simultaneous plea for endless re-invention and negotiation.

The idea of discovery suggests that identities picked out for affirmation and recognition within the public sphere, are cognized *as they are*. That is, as authentic expressions of my own original way of being to which I must be faithful. The idea of invention, on the other hand, posits a different way of relating to identity. It appeals to the fluidity of identity and the potentially transformative potentials involved in disclosure and dialogic exchange.

On the initial formulation of the public sphere as a shared identity space, Taylor is able to incorporate the insight that modern identity always embodies an ambivalence between the components of 'discovery' and 'invention'. As we saw in the previous chapter Taylor's account of modern subjectivity rests on a conception of human beings as language users situated within 'webs of interlocution'. On this account, language is never my own creation; it always situates me within a given community of speakers. At the same time however, articulation does afford opportunities for creative expression and possibilities for self-transformation, so that "Discovering… …depends on, is interwoven with inventing" (SS 18).[175] However Taylor defines the public sphere both in terms of its function, *what it does,* and its form, *what it must be*. It is in Taylor's response to the latter point that the central difficulty of his approach becomes discernable. He thinks that for the public sphere to perform its function of mediating and negotiating distinct identities, it must be an arena in which diverse identities are accurately and respectfully recognised.

Taylor insists that some form of unified political identity is a vital substrate for common action carried out within the public sphere. He argues that if the public sphere is to perform its essential functions as an arena for the formation of enlightened opinion, and an exercise in citizen self-rule, it must be understood as in some sense independent of the political constitution. Democratic practice, he thinks, requires a high level of what we might term 'precommitment'.[176] Without this kind of precommitment, those who lose out in democratic procedures, such as majority decision making, would not be able to accept as binding, those decisions to which they had not assented.[177] Furthermore formal guarantees of equal rights to political participation are inadequate for sustaining the kind of precommitment Taylor has in mind, which depends also upon the social context that conditions the character of public deliberation. A political society can, he thinks, be highly democratic in its adherence to

democratic practices and yet deeply alienating due to its failure to approach the conditions of achieving a viable collective identity. For Taylor, the realisation of a viable political identity rests on the stringent condition "that people must actually be able to relate to it, to find themselves reflected in it."[178]

Taylor envisions a space in which the distinct identities of individuals are accurately mirrored and respectively affirmed in the shared public realm as a *condition* of democratic legitimacy. However it appears intensely optimistic to assume that in conditions of cultural diversity, agreement could be achieved on the appropriate forms that mutual recognition should take. Taylor's account seems to assume that the authentic content of those cultures deemed worthy of recognition, once correctly identified, can fit into a common framework without tension or remainder. This is by no means a trivial assumption yet it is an assumption that is shared by many prominent proponents of multiculturalism who appeal to a similar Herderian inspired vision of cultures as clearly defined wholes that are not only compatible, but mutually complementary.

These accounts tend to regard cultural diversity as something that has an intrinsic value and that must therefore be preserved at all costs. Bhikhu Parekh, for example, argues different cultures have the capacity to "educate and civilise each other."[179]. "They should be judged", he suggests, "not only on the basis of what they are in themselves, but also in terms of their contribution to the overall richness of society."[180] On a similar note, this time linking cultural diversity to biodiversity James Tully argues that "The value of continuing overlapping, interacting and contested forms of life we call human cultures is analogous to the value of preserving the equally independent plant and animal cultures."[181] On these accounts a conception of culture as an impetus for progress and development is privileged over an understandings of culture that regard it as a necessary context of meaningful options for individuals.

One of the central weaknesses of Taylor's account of the politics of difference is that it appears to be tied to a view of this sort. While he thinks it inevitable that we will treat 'different differences differently' he thinks that differences that embody authentic self understandings can be a source of 'growth and completion'.[182] Insofar as we "need each other, precisely in our

difference, to be whole beings" the key notion for dealing with cultural diversity is, he thinks "complementarity".[183] The idea that cultural diversity has intrinsic value appears to support the case for cultural survival. It contributes to the appeal of an approach which regards all cultures which have endured over time as having value and worth, and an important contribution to make to the overarching good of society. It supports Taylor's account of what the constructive project of recognition should involve. However, it is too controversial an account of culture upon which to build a theory of democratic legitimacy.

Modern society embodies not only a range of different cultures, but also a variety of ways of relating to one's cultural heritage. Some components of culture are likely to function more pervasively in self-understandings than others. Language, for example, may be more significant than dress, manners or cuisine. Furthermore, cultures may come to define themselves more and more by a specific element of a rich and diverse cultural heritage if this particular element is somehow threatened. Additionally, the same cultural components are likely to have different significations within different cultures. Take work for example. In the developed world, the economy depends upon a highly mobile and flexible workforce which can accumulate new skills to keep pace with technological developments and markets. In these circumstances, work –the means by which one meets one's need of subsistence –is likely to be a less significant constituent of one's self understanding than it is within strongly hierarchical or tribal societies within which work defines a stable role which has huge social significance in sustaining a given form of community.

Not surprisingly in light of the different forms that cultural communities take, individuals are likely to relate to these distinct cultural heritages in different ways. One may deeply cherish its system of meaning and significance and seek to lead a culturally authentic life, or another may take an innovative stance towards her cultural heritage drawing only on those beliefs and practices which she judges valuable and borrowing also from other traditions.[184] The prevalence of the last two options already disrupts the idea of cultures as unitary and bounded wholes and points to a picture of cultural identities as overlapping and cross-cutting.

While Taylor's account of the public sphere as a shared identity space can encompass a

multitude of ways of relating to one's cultural heritage and can incorporate various forms of cultural belonging, the politics of difference, with its commitment to cultural survival, supports a kind of politics which may imprison future generations within a cultural identity defined by current authoritative descriptions. While the public sphere model appears capable of acknowledging the fluidity and evolving nature of citizen identities, the politics of difference appears to pull in the opposite direction.

This tension is resolved by Taylor in a move which parallels his appeal to 'moral sources' considered in the previous chapter. He attempts to stabilise the ambivalence that he finds at the heart of modern identity, by an appeal to a teleological vision which discloses his ultimate 'faith' in the harmony of being. The project of sharing identity space is divested of conflict and ambiguity by appeal to an implicit teleology reminiscent of Herder's "article of faith"[185] William Connolly cites an important passage in which Taylor unequivocally affirms "the presence of a principle of teleology in his political philosophy."[186] Taylor writes:

> "For what is meant by a "teleological philosophy"? If we mean some inescapable design at work inexorably in history, à la Hegel, then I am of course not committed to it. But if we mean by this expression that there is a distinction between distorted and authentic self-understanding, and that the latter can in a sense be said to follow from a direction in being, I do indeed espouse such a view."[187]

Taylor's ontological vision appears to ascribe authentic identities to unique selves. Furthermore it assumes that individuals can achieve their distinctive mode of self-perfection only within the context of a well-defined cultural community. Finally, it assumes that these discrete political communities support mutual development and growth towards a harmonious direction of being.

Despite his insistence that 'discovery' and 'invention' are interwoven, and that moral sources can be transvaluated as well as discovered in the course of articulation, so that subjects can adopt different values, he nevertheless assumes that "the change here is not a revolution, negating past values, "but rather the move from a confused, inchoate understanding... to a clearer, more articulate view of the same.""[188]The problem is that this quasi-theistic vision has the potential to be as exclusionary of diverse identities as a strict proceduralism does. As opposed to looking for an intrinsic harmony in being, procedural liberalism abstracts completely from questions of ontology and cannot recognise the potential

for formal measures of inclusion to conceal the political dominance of a given identity and the consequent marginalisation of others. On the other hand, a political community which finds the source of its unity in an identity that accurately and respectfully mirrors the discrete identities of members is liable to conceal the ambivalence between 'discovery' and 'invention' in privileging the former pole.

Taylor brings the people as the 'constitutive power' more clearly into the frame than do the liberal approaches that were considered in Chapter One, and offers an ambitious attempt to define a framework that might define this identity within Western modernity. While the analysis he offers of the public sphere shows an appreciation of the ambivalent relationship between the people and the constitutional order that it authorises, his attempt to construct this order in such a way that it can provide just and transparent relations of recognition, pulls in a contrary direction. It envisages a political community based on a shared and stable identity and closes off the possibilities for a more performative style of politics, which the idea of articulation as self-disclosure as well as self-invention appears to point towards. A politics that incorporated a performative element would, instead of reproducing and re-presenting "what" we are, simultaneously generate "who" we are by episodically producing new identities.[189]

Chapter Four. Jürgen Habermas: *The Communicative Public Sphere.*

Introduction

The difficulties that have been found to attach to Taylor's approach arise partly as a consequence of his propensity to understand the political realm as an arena which gives expression to the values and identities of its members, and within which individuals seek personal resonance. He defines the legitimacy of the constitutional state in terms of the affective stance that its members take up toward it. He suggests that legitimacy is a term that designates "the beliefs and attitudes that members have towards the society they make up."[1] Habermas, by contrast, thinks that questions about personal meaning and moral motivation are beyond the scope of social and political theory, which must instead aim to find a rational basis for collective identity. No more comprehensive kind of integration will be achievable in modern pluralistic societies, he suggests. Instead, solidarity emerges from practices of rational discourse that arise in the spaces created by the fractures within the prevailing social consensus.

This chapter considers Habermas's attempt to tie the notion of democratic legitimacy to an ideal of rational discourse. Section One locates the inception of this project in his earliest

reflections on democracy and the constitutional state. In *The Structural Transformation of the Public Sphere,* Habermas offers a socio-cultural analysis of the development of the public sphere and alights upon the bourgeois constitutional state as an ideal type and critical standard against which contemporary democratic states can be compared and evaluated. Though he has subsequently relinquished the idea that the bourgeois public sphere can serve as a model for contemporary politics, it is nevertheless useful to analyse some key themes of this early work since in revisiting it on the occasion of its reprinting thirty years on from its initial publication, Habermas states that his theory has changed, "less in fundamentals than its degree and complexity".[2]

One of the central problems that engages Habermas in his most recent work, which I consider in the following chapter, is the question of how the normative core of discursive will-formation might be preserved as the basis for democratic legitimacy in the context of highly differentiated modern societies[3]. This project is coterminous with that pursued in *The Structural Transformation,* where he wrestles with the problem of how the genuine processes of communication that he identifies within the bourgeois public sphere might be instantiated in modern democracies, having been subverted by the powerful interests and the exigencies of strategic action that define modern welfare states. At the close of *The Structural Transformation,* he is ultimately pessimistic about the possibilities for democracy in advanced capitalism due to the erosion of the distinction between private and public, on which the bourgeois public sphere rested. A more sanguine approach to democratic theory is made possible by Habermas's turn to a communicative ethics and the theoretical possibilities that this opens up (Section 2). Of particular importance is the attempt to develop a feasible model of participatory politics that links democratic legitimacy with public reason, but does not hold practical politics hostage to a substantive conception of rationality (2.1). He aims to complement this normative approach, which draws on action theory, with a functionalist analysis drawn from systems theory.[4] It is on this basis that he distinguishes *lifeworld* from *system,* though the former category is given more detailed consideration here, since Habermas relies heavily on the idea of a *rationalized lifeworld* as a context in which the practice of *argumentation* becomes more discernable and widespread (2.2). Habermas analyses the

performative attitude of individuals engaged in practices of argumentation, to develop an account of 'discourse ethics'[5] (2.3).

I suggest that each of these theoretical developments can be usefully understood as a simultaneous appropriation and refinement of Hannah Arendt's communicative conception of power as *jurisgenisis*. Arendt defines power not as the possession of an individual or a material resource at the disposal of institutions, but as a potential, inherent in human interactions.[6] Habermas draws upon this idea of communicative power in order to disentangle the normative ideal of discursive interaction from the infrastructure of the bourgeois constitutional state and locates the potential for genuine communication at a deeper level in the unimpaired structures of intersubjectivity that define the everyday communicative practices. The distinction between life-world and system does not draw directly on Arendt's conceptual schema, but since I am less concerned with the origins of the concept than with its utility, I will present it here as a useful means of rendering Arendt's austere conception of political action more relevant for the context of capitalist, increasingly bureaucratised societies.[7] Section Three considers critical perspectives on discourse ethics and in particular the claim made by Habermas that it is *cognitive, universal* and *formal.*

1. THE PUBLIC SPHERE

1.1 An early formulation: the liberal bourgeois public sphere

As an historical formation, the liberal bourgeois public sphere was dependent upon the separation of civil society from the state, made possible by the emergent form of economic organisation based upon commodity exchange. In *The Structural Transformation of the Public Sphere,* Habermas traces the emergence and decline of this model within the context of a broader socio-historical analysis of the formation and evolution of the state from its absolutist form in feudal societies, to present day social democracies. He alights on the relatively short-lived bourgeois liberal form as a basic blueprint, embodying a vital normative tool for a critical theory of democracy. The principle underlying the bourgeois public sphere, that state authority is held accountable by the court of public opinion formed through free and open critical

deliberation, is, he claims, an indispensable, as opposed to a historically contingent, ideal for democratic society.

On Habermas's analysis, the ideology of the public sphere that embeds this normative kernel develops in tandem with its institutionalised form, and in opposition to the absolutist state of the feudal system. Both the ideology and the infrastructure of the liberal bourgeois public sphere have their inception, Habermas thinks, in the literary public spheres that sprung up in the coffee houses, *salons* and *Tischgesellschafen* of Britain, France and Germany in the mid seventeenth century[8]. These literary public spheres provided the opportunity for individuals to develop their critical and deliberative capacities in relation to common concerns, initially cultural products. Debate was conducted according to a number of institutional criteria, all of which preserved the power-free, rational and secular character of deliberation within the public sphere[9]. These early incarnations of a critical debating public were, in principle at least, inclusive and tended to be ongoing. They led to the development of the press and professional criticism which ultimately allowed the bourgeois public sphere to become conscious of itself as the carrier of public opinion and, to hold government to account through the principle of supervision.

Habermas's model of the public sphere offers an important normative category for democratic theory since, in tracing its roots to the constitutional republics of the eighteenth century and to their precedents in the literary public spheres of the previous century, Habermas identifies a model of the public sphere as an arena for democratic will-formation which is notably distinct from influential republican conceptions inspired by the idealisation of the small self-governing city states of Rome or Athens.[10]

1.11 Inwardness and publicness

The bourgeois public sphere places a high value on privacy and locates the roots of active citizenship in civil society regulated by law. This is in contrast with republican inspired conceptions of the public sphere, which tend to valorise public life as the primary site of authentic human existence. Rousseau, for example, ultimately ties the idea of authentic self-realisation to the requirements of the general will and consequently is led to the chilling

pronouncement that individuals can be 'forced to be free'. Hannah Arendt is deeply critical of Rousseau's idea of the 'people-as-one' and thus construes political action in more individualistic terms. Nonetheless, a public arena is an essential guarantor for inscribing individual acts of self-disclosure with reality and meaning. On Arendt's account true freedom consists in political action before one's peers. "A life without speech and without action", she claims "is literally dead to the world; it has ceased to be a human life because it is no longer lived among men."[11] The idea of "inner freedom" and the associated conception of the subjective will and the intercourse with one's self, she treats as a merely derivative category for politics since it involves a retreat from the world.[12]

In contrast with these accounts, Habermas finds at the heart of the bourgeois conception, a strong emphasis on the conjugal family and the assumption that the private realm is the authentic site of human autonomy.[13] The significance of this emphasis on the private autonomous self, is in the creation of a "specifically bourgeois dialectic of inwardness and publicness"[14] Pauline Johnson characterises this dialectic thus,

> "On the one hand, it produced a domain of private autonomy that demanded freedom from the domination of external constraint. The conjugal family also appeared as a living source of a new self whose passionate examination of its psychological and experiential states craved publicity, recognition from others."[15]

The significance of this dialectic for the political realm is in its generating a new idea of publicity as 'critical publicity' to replace the 'representative publicity' of feudal society.

The 'representative publicity' of feudal society was an impersonal form of publicness that involved "the presentation of oneself behind a mask that removes private emotions and everything subjective from sight."[16] It traded on the 'celebration of rank' through socially inscribed codes and symbols, such as insignia, dress, demeanour and rhetoric.[17] By contrast, the bourgeois public sphere was based on the ideal of critical publicity oriented in the first instance to common cultural concerns, and later, to common political concerns. In both cases private individuals discussed matters of common concern and discussants were accorded parity of esteem by a system which disregarded hierarchy and status.[18] These institutional provisions were intended to ensure that the force of the better argument held sway over the status accorded by social hierarchy.[19]

This ideal was not, Habermas recognises, realised in practice, but it had become institutionalised in the organisation of these critical debating publics and 'thereby stated as an objective claim.'[20] Hence, "While these societies certainly remained an exclusively bourgeois affair, they did provide the training ground for what were later to become a future society's norms of political equality."[21] Core liberal values such as the rule of law, constitutional government and individual rights achieve concrete expression in the bourgeois constitutional state.

Crucial to Habermas's account is the claim that the bourgeois public sphere, through this norm of critical publicity, ushered in a new mode of legitimation for political power in constructing a new vision of rational authority according to which law is related to the rational content of public opinion. The domination that attaches to political rule, whether this rule is sanctioned by the will of a ruler, or of the people acting collectively, is replaced by the bourgeois understanding of the responsive law-based state. The arbitrary will of the sovereign is replaced with the rational justification of law.[22]

This change in the basis of legitimation ushered in by the bourgeois public sphere brings about a corresponding transformation in the nature of power.[23] This point is absolutely central to Habermas's account, in particular to his attempt to find a basis for the interconnection between legitimacy and social integration. The existing mode of power in feudal societies was replaced with the principle of supervision: "the principle which demands that proceedings be made public."[24] Modern constitutions then, not only limited state authority and secured private autonomy through the protection of rights, but

> "Between these two spheres, the constitutions further insured the existence of a realm of private individuals assembled into a public body who as citizens transmit the needs of bourgeois society to the state, in order, ideally, to transform political into "rational" authority within the medium of this public sphere."[25]

The "general interest" was "the measure of such a rationality."[26] On this view, political power issues not, as Rousseau thinks, from a consensus of hearts, but from a consensus grounded in arguments.[27] Habermas has in common with republican accounts such as Rousseau's, the idea that social integration rests ultimately on a supra-legal basis of solidarity. However solidarity for Habermas cannot be the expression of a substantive ethical consensus. In his later work he

comes to formulate explicitly the idea that this solidarity subsists in the value orientations of individuals that issue ultimately from communicative action and deliberation.[28]

1.12 Democracy, complexity and differentiation

Despite his emphasis on democratic participation as an essential component of social integration, Habermas acknowledges that the administrative exercise of state power must be taken as a given in the context of modern complex societies, this requires that the state has its own distinct organisational structure. Rousseau was unequivocal on the point that the general will could not be represented and that in a democratic state, the people collectively possess sole legislative responsibility. On this view the state had the limited role of administering the general will rather than having any distinct organisational basis which might distort its expression. Habermas recognises that direct forms of democracy are completely inappropriate for modern complex pluralistic societies and that a sociologically astute democratic theory must accommodate the administrative state and the economy as distinct spheres of social organisation, and powerful media of social co-ordination.

Nonetheless, since it is the deliberative core that defines the public sphere as an arena of democratic control on Habermas's account, it is critical that this is preserved as a non-governmental arena of opinion-making, structured by discursive and not by market relations. Habermas remains committed to an ideal of participatory democracy in which citizens have an 'equal and effective opportunity to participate in processes of collective judgement.'[29] Any defence of a participatory model of democratic practice for contemporary democracies is likely to evince the criticism that, due to the complexity of modern society, the actual business of legislating and policy formulation must be left to those with the requisite expertise or technical knowledge. Habermas doesn't ignore or regret tendencies towards increasing specialisation and differentiation, but resists the 'realist' conclusion that these tendencies render democratic ideals redundant. He insists that even in modern democracies,

> "There are no questions so specialized that they cannot be translated when it is politically relevant to do so, and even adapted in such a way as to make it possible for the alternative experts discuss to be rationally debated in a broader public forum as well. In a democracy, expertise can have no political privilege" (*sic*)[30].

Rather than abandon the ideal of participatory politics, Habermas tries to sketch the contours of an early organisational form based on the ideal of critical rationality performing a legitimating role within the constitutional state by holding the operative public authority to account. He thinks that though the ideals of inclusivity and equality were never fully met in practice, this conception of the public sphere has normative and ideological potentials for broadening and deepening democratic politics by appealing to this critical rationality as a counterweight to powerful economic and bureaucratic interests. This aspect of his project has appealed to leftist democrats such as Nancy Fraser who, despite her misgivings about the specific form in which Habermas has elaborated the idea of the public sphere, has appropriated it as an "indispensable" tool for critical social theory and democratic practice insofar as it delimits "a site for the production and circulation of discourses that can in principle be critical of the state".[31]

While this early account of the public sphere proved to be a useful tool for critical theory and continued to provide something of a normative framework for Habermas's subsequent work, he had not yet developed the conceptual apparatus that allowed him to envision a post-bourgeois model of the public sphere. The latter part of *The Structural Transformation of the Public Sphere* charts the decline and the disintegration of the bourgeois public sphere and offers a fairly bleak portrait of the development of twentieth century capitalist society. In his early account, he is decidedly vague on the question of how the normative principle of legitimation through uncoerced communication, which he finds incipient in the self-understanding of the bourgeois public sphere, might be realised within a theory of institutions.

1.2 The decline of bourgeois the public sphere

Habermas suggests that, "Although the liberal model of the public sphere is still instructive today… … it cannot be applied to the actual conditions of an industrially advanced mass democracy organized in the form of the social welfare state."[32] A return to the liberal public sphere is not only unfeasible, it is also undesirable since social democracies emerged alongside a process that exposed the very real tension between the universality implicit in the liberal ideal of the public sphere and the reality of its role in legitimating emergent class rule.

This tension was concealed by recourse to an ideology that saw the protection of economic freedoms as crucial for preserving the autonomy of a supposedly self-regulating market, based around the exchange relationships of private persons, and which cloaked the inequalities of the market in an aura of natural justice. [33]

The bourgeois ideology always contained a 'fundamental ideological obfuscation' it is suggested, in its conflation of two identities: that of the individual as property owner, and that of the individual as, simply, a human being.[34] The bourgeois state failed to actualise the dissolution of political rule that was betokened by the ideals of critical publicity insofar as the protection of formal law and negative rights actually worked to the advantage of the owners of capital. Being so linked with the interests of a particular class, the bourgeois state never lived up to its ideals of universality and inclusivity and so was vulnerable to the opposition of the competing class interests of organised labour.

As the liberal model of the market economy, which had envisaged "horizontal exchange relationships among individual commodity owners", is subverted by the existence of unequal exchange relationships and the concentration of social power in private hands, labour movements develop as a counter-weight to this social power.[35] With this structural transformation, "the powers of 'society' themselves assumed the functions of public authority" and the arena of commodity exchange became one in which conflicting interests competed through bargaining processes, semi-institutionalised through legal statutes.[36]

Habermas claims that these tendencies undermine crucial distinctions between state and society, public and private, upon which the realisation of the normative potential of the bourgeois public sphere depends. Habermas summarizes these trends and their consequences as follows,

> "The public body lost not only its social exclusivity; it lost in addition the coherence created by bourgeois social institutions and a relatively high standard of education. Conflicts hitherto restricted to the private sphere now intrude into the public sphere. Group needs which can expect no satisfaction from a self-regulating market now tend towards a regulation by the state. The public becomes a field for competition of interests, competitions which assume the form of violent conflict. Laws which obviously have come about under the "pressure of the street" can scarcely be understood as arising from consensus of private individuals

engaged in public discussion."[37]

The expansion of the public sphere beyond the bounds of the bourgeoisie, realised through positive rights to democratic participation and social welfare, fails to produce the trend to universal inclusion into the democratic public sphere that they are conceptually driven to enable, due to the erosion of the conditions required for the realisation of this ideal. The most fundamental of these conditions being the distinction between private and public, which is essential to the public sphere being preserved as an arena for rational will-formation as opposed to bargaining among private interests.

In late capitalism, Habermas argues, the essential function of holding public authority to account is gradually eroded as the deliberative public sphere is, in Habermas's words, 'refeudalised'. At the same time as the state becomes more strongly interventionist in the sphere of social welfare provision, citizenship status is further depoliticised by the rise of a manipulative mass media which subverts the principle of publicity. Publicity, in the sense of a rational critical public holding public authority to account, disappears as "the ever more densely sprung communications network of the electronic mass media is organised in such a manner that it controls the loyalty of a depoliticized population, rather than serving to make the social and state controls, in turn, subject to a decentralized and uninhibited discursive formation of the public will."[38]

Habermas presents a portrait of welfare state democracy wherein publicity is generated from above in a manner akin to the 'representative publicity' that characterised feudal society. He writes,

> "Before the expanded public sphere the transactions themselves are stylised into a show. Publicity loses its critical function in favour of a staged display; even arguments are transmuted into symbols to which again one can not respond by arguing but only by identifying with them."[39]

The rise of 'PR' is an indication that the public sphere has to be created on a case-by-case basis through securing the compliance and acclamation of an acquiescent public.[40]

1.3 Further reflections on the public sphere and normative reorientations.

Habermas offers his model of the public sphere, not only as a more feasible model of

democratic will-formation for contemporary democratic societies, but also as *the* model that the modern state consistently embraces and yet fails to embody.[41] Hence although the bourgeois public sphere was, according to Habermas, politically effective for only a relatively brief period, since the separation between the public and private realms upon which it depended came to be mutually infiltrated by society, "it nevertheless determines an important portion of the procedures to which the political exercise and balance of power are factually bound."[42] This idea lies at the root of Habermas's early ideological-critical approach to the public sphere. His analysis of the way in which the possibilities for free discussion and communication were subverted by powerful sectional interests found resonance within 1960s student radical movements.[43] However, the conceptual presuppositions of the analysis also became the focus of critique even among those sympathetic to its broader aims.

In a lucid and wide-ranging essay Nancy Fraser counsels that to argue that "the public sphere was a good idea that unfortunately was not realized in practice but retains some emancipatory force" is simplistic.[44] Here I can provide only a very brief sketch of those portions of Fraser's critique that have a direct bearing on Habermas's methodological and sociological re-orientations. Fraser contends that Habermas idealises the liberal public sphere and its norm of bracketing social differences, since he simply ignores counter-publics, which constructed alternative routes of access to public political life and often operated according to different maxims. She draws from an essay by Mary Ryan to develop the example of nineteenth century North American women who, despite being excluded from the official public sphere, constructed voluntary associations that drew on "quintessentially 'private' idioms of domesticity and motherhood precisely as springboards for public activity."[45] These groups resist the bourgeois exhortation to bracket social differences and its tendency to cast domestic and familial relations as private and personal in contradistinction to public and political matters.[46]

Fraser argues forcefully that Habermas not only neglects alternative models of democratic politics, but fails to recognise the extent to which the ideal of 'bracketing' status differentials and entreating people to act 'as if' they were social peers, was actually part of the ideological armoury which functioned to legitimate an emergent form of class rule. This cannot then, on Fraser's view, be understood as an ideal principle that regrettably was not realised in

practice. Rather, it must be construed as "a very serious difficulty with the bourgeois conception of the public sphere."[47] She writes,

> "Insofar as the bracketing of social inequalities in deliberation means proceeding as if they don't exist when they do, this does not foster participatory parity. On the contrary, such bracketing usually works to the advantage of dominant groups in society and to the disadvantage of subordinates."[48]

The impact of this critique rests in the claim that the exclusions of the bourgeois public sphere were not contingent, but constitutive, a claim supported, Fraser thinks, by historical interpretations that "a bourgeois public was never defined solely by the struggle against absolutism and traditional authority, but… addressed the problem of popular containment as well."[49] The stated aim that status-differentials must be 'bracketed' and 'neutralised' in the name of critical publicity were, in the absence of state intervention, insufficient for the actual realisation of the bourgeois aspiration of personal autonomy. Furthermore, the commitment to status-blindness merely loaned to the bourgeois public sphere a false impression of universality and disguised the ideological component to the free-market by construing inequality as an unavoidable consequence of its neutral operations.

Fraser suggests that the bourgeois public sphere harbours a further, potentially damaging, ideological concealment in its "institutional confinement of public life to a single, overarching public sphere."[50] Again, she thinks that exalting one public arena, as *the* public-political forum is likely to favour powerful groups, leaving marginalised constituencies without a voice, so to speak. Political participation means, Fraser argues, "being able to speak in one's own voice" and to thereby enact a discrete and particular identity through idiom and style.[51] In neglecting the role of the public sphere for the formation and enactment of social identities, the bourgeois conception surreptitiously conceals the product of its own peculiar cultural enactment by interpreting it as a neutral background for deliberation. "This conception", Fraser writes, "assumes that a public sphere is, or can be, a space of zero degree culture, so utterly bereft of any specific ethos as to accommodate with perfect neutrality and equal ease interventions expressive of any and every cultural ethos."[52] Again, the idea of a singular public sphere is one that Habermas appropriates too uncritically from the bourgeois conception according to Fraser.

More recently, Habermas has come to refine his theory in ways which he thinks can

respond to these criticisms. He has rejected the holistic conception of the public sphere, influenced by Abendroth's view of social democracy, which rests on the, now discredited notion, that "society and its self-organisation can be considered as a totality."[53] The idea that the sovereign people can plan, control, and direct, the various distinct spheres of the society to which they belong, has, he thinks, "become entirely implausible in view of the high level of complexity of functionally differentiated societies."[54] He now locates the public sphere not in the 'holistic demand for the self-organisation of society', but in the loosely associated networks of associational life, which might be referred to as 'civil society.'[55] The communicative power enacted by these dispersed publics cannot provide a substitute for the independent sources of control exercised by money and administrative power. Rather they exert influence over these functionally differentiated spheres and resist their further encroachment into the public realm.[56]

In response to the former criticism, Habermas now accepts that the exclusion of women has been constitutive for the political public sphere.[57] That is, as opposed to the public sphere having been dominated by men as a matter of contingency, the specific character of the political public sphere has been enacted and defined by this exclusion. He nevertheless insists that the excluded other, in this case feminist movements, can utilise the principal normative ideal of bourgeois publicness to articulate their demands for equality and inclusion.[58] When understood procedurally, in isolation from any concrete historical incarnation, the ideal of critical publicity has inherent within it the potential to subvert specific forms of domination and rule. The indispensable ideal of democracy, that which distinguishes it from other forms of political domination is, Habermas insists, a 'rational principle of legitimation' that is not tied to types of organisation marked out apriori.[59]

Habermas now accepts that the potential for self-transformation inherent in these ideals is not delimited clearly enough using the ideology-critical approach. There are also more fundamental problems associated with this conceptual approach, namely its dependence upon a materialist philosophy of history which assumes that the motor of historical progress is the tension between the ideal self-understanding and the existing conditions within any given epoch. Not only does this approach tend towards an overstatement of bourgeois liberal ideals, it has also been powerfully discredited by the 'civilised barbarisms' of the twentieth century

which render disingenuous any attempt to interpret modernity as the progressive realisation of liberal humanist ideals.[60]

On account of these difficulties Habermas has abandoned the ideological-critical in favour of a reconstructive approach to social and political theory. Rather than appealing to norms implicit in the ideals of a specific historical epoch, he looks instead to the everyday communicative practices that structure a whole range of social interactions from which to recover those norms and procedures that could promote democratisation. The cognitive gain of this approach to social theory rests on the fact that "the normative contents of a humane social life can be introduced in an unsuspicious way by means of a communication theory, without the need to smuggle them in secretly by way of a philosophy of history."[61]

2. RESCUING THE NORMATIVE CORE: COMMUNICATIVE POWER AND DISCOURSE ETHICS

Habermas regards Arendt's concept of communicative action as a useful tool for critical theory, insofar as it highlights some of the deformations of Western mass democracies and throws into sharp relief the subjectivist bias of modern philosophy. He intuits the genuine potential that Arendt's idea of communicative power has in offering an approach to democratic politics which, in incorporating a participatory ideal of self-rule, and emphasising the intersubjective basis of socially regulative norms, avoids some of the difficulties of conventional liberal approaches.

Although Habermas has acknowledged his profound intellectual debt to Arendt[62], he has been critical of her nostalgic vision of a lost public realm and its associated conception of political action, suggesting that it leads to absurdities when applied to modern societies. His appropriation of her central categories has, then, been selective, arguably to the point of distortion.[63] I do not propose to offer a critical exposition of Arendt's political thought in its own right, or to analyse the veracity of Habermas's interpretation of it. Rather, I consider Habermas's critical engagement as a useful standpoint from which to spell out three central features of his account. (2.1) The association of democratic legitimacy and communicative power, and the emphasis on law as the medium for channelling communicative into

administrative power. (2.2) The attempt to combine this core normative value of communication with an empirical approach by distinguishing the ideas of *lifeworld* and *system* and their respective modes of social integration. (2.3) The attempt to develop a discourse ethics that has a cognitivist, universalist and formal character.

2.1 Participatory politics and constitutional democracy

From his earliest reflections on the public sphere, Habermas has been concerned to preserve the republican strand of political thought, in particular its emphasis on political participation and self-rule. As we saw in Chapter One, the recent trend in liberal theory has been to demonstrate a greater concern with constructing principles and procedures for the rational exercise of state power than with broadening and deepening democratic participation. Indeed, it is sometimes assumed that participatory democracy is an obsolete ideal, and that deliberative forms, in particular, are compromised by the diversity and institutional complexity of modern societies.[64] On this view, the best that can be hoped for is a certain control of political elites through the formal political powers of voting and lobbying.[65]

In the mid-twentieth century, elitist theories of representative democracy such as Schumpeter's *Capitalism, Socialism and Democracy* were presented as the most coherent expression of the democratic ideal.[66] Schumpeter argued that the democratic method was realised in "that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."[67] Here the core meaning of democracy is defined in terms borrowed from the market, such as bargaining and competition. No attempt is made to relate democratic practice to the core values that informed earlier models of citizenship such as equal participation, deliberation and decision making on issues of common concern. The reduction of democratic politics to an exercise in 'PR' and competitive bargaining is precisely what Habermas is most concerned to avoid and explains what he finds appealing in Arendt's participatory alternative.

Jean Cohen and Andrew Arato have suggested that it is not an exaggeration to say, that "the debate between elitist and participatory theories of democracy has been going around in circles ever since Schumpeter threw down the gauntlet to the normativists in 1942."[68] Schumpeter's thesis was presented as a realistic interpretation of democratic practice in

complex societies. The need to provide a mechanism for curtailing the excesses of populism that achieved such destructive expression in the totalitarian regimes of the 1930s no doubt added to its plausibility.[69] In contrast with the analyses of many of her contemporaries however, Arendt argued that the defining feature of totalitarianism was not the expansion of politics through mass participation, but its abolition through the removal of the capacity to 'act in concert' which is essential for fostering political freedom and generating legitimate political power.[70] For Arendt, totalitarianism is only an extreme case of the erosion of political freedom, which is the canker of Western mass democracy. She argues that representative government merely institutionalises the concept of rule as opposed to allowing for genuine political action and "the best that it has achieved is a certain control of the rulers by those who are ruled."[71] Schumpeter himself accepts that his model of constitutional government centres on 'the rule of the politician'. This emphasis on political rule does nothing, Arendt thinks, to enable the citizen to become a "participator" in public affairs.[72]

Arendt thinks that in order to overcome the domination which attaches to political rule, political power must be traced to a source outside of the institutions and practices of the state. Arendt finds this source in the power enacted within the 'space of appearances' between acting and speaking men. Action before one's peers is, she thinks, essentially productive of power, and is needed to sustain it. She writes,

> "Power corresponds to the human ability not just to act but to act in concert, Power is never the property of an individual; it belongs to a group and remains in existence only so long as the group keeps together."[73]

In order to differentiate the legitimate authority of a political order from the source of this authority in the collective citizen body, Arendt, as we have seen in Chapter one, draws explicitly on the idea of the constituent power. Specifically, she develops this account on the basis of Sieyés distinction between the *pouvoir constituant* and the *pouvoir constitu*é. The former applies to the 'founding' or 'constitutive' moment of popular sovereignty and is prior to, and distinct from, the latter, which designates its embodiment in the constituted authority[74]. She points to an equivocation in the meaning of constitutionalism, which stems from its capacity to express each of these moments:

> "The word 'constitution' obviously is equivocal in that it means the act of constituting as well

> as the law or rules of government that are 'constituted', be these embodied in written documents or, as in the case of the British constitution, implied in institutions, customs and precedents"[75]

She uses this distinction to hammer home the point that only the communicative power of citizens can constitute, in the sense of founding, legitimate political authority and to thereby re-instate the central importance of the public sphere for political democracy[76].

The public sphere is so crucial a concept within Habermas's theory of democracy for the same reasons that it is basic to Arendt's approach to the political. It is the arena for uncoerced communicative exchange among citizens, and the ultimate source of legitimate political power. Habermas is unequivocal on this latter point: "Read in discourse-theoretic terms, the principle of popular sovereignty states that all political power derives from the communicative power of citizens."[77]

As regards the nature of communicative power and its appropriateness as a source of legitimate law, Habermas is particularly impressed by the idea of 'representational thinking' that Arendt draws from Kant as an approach to an intersubjective process of judgement. Representational thinking requires us to test our own judgement by "putting ourselves in the place of any other man" and so necessarily takes place in public.[78] It is on account of its finding an intersubjective basis for judgement that Arendt regards *The Critique of Judgement* as opposed to the *Critique of Practical Reason* in which Kant explicates the idea of the testing generalisable interests by the categorical imperative, as his most paradigmatically political work[79].

Arendt anticipates Habermas in using the irreducible plurality of the public sphere to provide the normative underpinnings of democratic legitimacy and to problematise the monological perspective of Kantian ethics, which assumes that those laws needed to regulate political power, and supposed to have universal validity, can be discerned from the point of view of a single sovereign subject.[80] However, as will become evident when we consider Habermas's formulation of 'discourse ethics', he seeks to re-instate, contra Arendt, the Kantian idea of 'generalisable interests' alongside an intersubjective understanding of practical reason.

Also in opposition to the Arendtian view, Habermas argues that while the idea of communicative power can account for the emergence of political power, it should not be

stylised into a model of politics *per se*. [81] "[W]ith the concept of communicative power, we get hold of only the *emergence* of political power, not the administrative employment of *already* constituted power, that is, the process of exercising power."[82] He thinks that although Arendt's emphasis on the constitutive power of communicative action is useful, the modes of action associated with it should not be assumed to be applicable to the whole range of political practice or stylised into an understanding of democratic politics per se. He finds Arendt's participatory model of democratic politics useful, since it focuses not primarily upon the role of politics in securing goods and interests, but on free agreement and discursive will-formation. He insists however that arguments which can offer a convincing justification for political authority do not necessarily have any direct implications for determining the procedures for its organisational form.[83] Habermas's model of procedural legitimacy is intended to be compatible with various types of political organisation, including political processes that utlilise non-communicative forms of action.

One of Habermas's main disagreements with Arendt turns on the extent to which a democratic politics rooted in *praxis* can be insulated from strategic concerns and non-communicative forms of action.[84] Habermas suggests that Arendt's attempt to construe the consensus-building force of communication as an end that cannot be intrumentalised for other purposes relies upon an anachronistic and outmoded ideal of political action. Habermas distinguishes strategic action as a subset of instrumental activity which Arendt fails to consider. Arendt equates instrumental action with the idea of craftsmanship or 'fabricating' which depends upon the determination of purposes prior to the activity itself and so is asocial and pre-political. However strategic action is, Habermas suggests, similar to 'fabricating' in being success oriented, but differs from it in being a constitutively social activity. In instances of strategic action, "one actor seeks to *influence* the behaviour of another by means of the threat of sanctions or the prospect of gratification."[85] It is exercised 'within the city walls' firstly, in the competition for positions tied to the exercise of legitimate power, and secondly, in the way that power is used and manipulated within the political system and the media. Habermas nevertheless retains the Arendtian distinction between instrumental and communicative activity. Strategic power is distinguished, he thinks, from communicative action wherein the force of the

better argument is the motivating factor.[86]

While conceding that a pure communications concept of power is pertinent as far as the engendering and legitimation of political power is concerned, Habermas regards it as a blunt analytical tool for the analysis of political power within modern constitutional democracies. Habermas has recently turned his attention towards developing a more decentred conception of the public sphere and evaluating how multiple publics can influence the power-steered administrative system. In alluding to the multiple roles with which individuals in civil society can identify in this decentred conception, Habermas offers a partial response to one of the difficulties raised by Fraser: the idea that a uniform totalising conception might entrench a hegemonic identity. I will consider these points in more detail in the following chapter. For now it is sufficient to note that legitimation processes take place definitively within the public sphere and are dependent upon democratic will-formation through discursive practices embodied in law. Habermas is vulnerable to the criticism that, ultimately, discourse ethics imposes uniformity upon multiple publics by alternative means.

2.2 Situating praxis: Habermas's conception of the lifeworld

Habermas argues that Arendt draws on "a theory of action inspired by Aristotle"[87] which identifies legitimate political power exclusively with praxis, the speaking and acting together of individuals. Habermas regards this notion of praxis as illuminating, given its devaluation in contemporary political life, but suggests that it should not be identified as the very essence of politics. It valorises public life at the expense of the private interactions and the social fabric of everyday experience, and places too little emphasis upon the real context of modern political life which any contemporary notion of democratic citizenship must take account of. Habermas, who, as we have seen, acknowledges private life as a valuable source of personal autonomy and regards the bourgeois values of interiority and privacy as important precursors of constitutional politics, wants to appropriate the non-instrumental emphasis of Arendt's model of political action, while ultimately offering a more nuanced portrait of democratic politics.

The problem as Habermas perceives it, is that having located praxis within the "space of appearances" characterised by the intersubjective power of a plurality of actors, Arendt

concentrates exclusively on the "normative question [of] how that space should be institutionalized as a public domain."[88] The main thrust of this critique is that, for Habermas, Arendt's communicative concept of power is sociologically unsophisticated, placing too much emphasis on the intentional agency of political actors and too little on the functional demands of the political systems within which these agents operate.

In focusing exclusively on praxis Arendt renders the practical activity of labour and production 'apolitical'.[89] She allows herself to be guided by a 'curious perspective' which Habermas summarises as follows,

> "[A] state which is relieved of the administrative handling of social affairs, a politics cleansed of all questions of social politics, an institutionalizing of public liberty that is independent of the organisation of welfare, a radically democratic formation of consensus that puts a stop to social repression."[90]

This perspective is not only untenable for modern societies, but is blind to the structural preconditions required for democratic equality. Ronald Terchek has convincingly argued that the cohesion required for participatory democracies is dependent upon duties grounded in 'stakes', in particular, that of private property.[91] The idea that widespread pre-existing inequalities of wealth and power are likely to subvert the necessary conditions for political democracy based on rational deliberation and preclude the emergence of generalisable interests is a strong and continuous theme in Habermas's work.[92] He argues that rather than preserving the autonomy of the political, Arendt's theory is in fact profoundly anti-political due to its inability to account for the ways in which social difference impacts upon political power[93]

Habermas therefore proposes to supplement this normative approach with a more empirical and sociological perspective. "The social scientist" he states, "must face the descriptive question of how that space of appearance which forms the horizon of everyday life actually works."[94] He proposes a dual analysis of the social order in which 'life-world' and 'system' are distinguished according to the 'mechanisms of social integration' needed to reproduce them.[95]

Habermas has, from an early stage in his writings, distinguished sharply between the life-world that is reproduced through communicative action and systems of action that make up the formally organised steering apparatus of society. In formulating these ideas he draws on

Husserl's category of the 'lifeworld' and Alfred Schutz's later appropriation and development of it.[96] The lifeworld is the background pre-theoretic knowledge in which communicative action is embedded. It is a "culturally transmitted and linguistically organized stock of interpretative patterns" which for the most part operates as an unproblematic context of background assumptions that makes social interaction possible.[97] Systems are understood not as communicatively reproduced contexts of action, but as functional wholes that secure their continued existence by mastering the complexity of an inconstant environment.[98] They capitalise on strategic, as opposed to communicative, forms of action. He nevertheless finds the idea of systems theory, developed by Talcott Parsons and appropriated in a modified form by Niklas Luhmann, too partial a view from which to analyze society. In a sense, systems theory makes the opposite mistake to Arendt by relying exclusively on empirical analytical techniques of investigation and explanation.

In his own work then, Habermas has attempted to theorise, in various ways, the relationship between systems integration, enacted through money and power, and the life-world with its integrative force of solidarity.[99] Most recently Habermas has come to formulate the relationship between these two irreducible elements of society in terms of a system of law 'through which communicative power is translated into administrative power.'[100] In each and every formulation of the relationship however, he has been concerned to preserve the 'life-world' and its distinct form of rationality and integration from the systematic self-steering media of the economy and administration, while acknowledging the latter as vital elements of modern democratic politics.[101] The lifeworld then has consistently been conceived by Habermas as the sphere of domination-free discourse and solidarity.

Distinct from this analysis of the relationship between life-world and system, and more relevant for this investigation, is Habermas's other central preoccupation in relation to the life-world: its historical progression towards increasing rationalisation. The life-world, Habermas suggests, embodies a distinctive form of rationality not only in the content of its propositional knowledge, but also in the underlying structure of communicative action oriented toward mutual understanding. As such it provides an all-encompassing background for social interaction containing "every possible interaction from the perspective of lifeworld

participants."[102] The communicative structure is non-rescindable from the point of view of agents operating within it. Habermas maintains that "under the aspect of *socialization,* communicative action serves the formation of personal identities."[103] Given its role in identity-formation, communicative action oriented to mutual understanding is the context within which an individual "already" stands. Habermas argues that it is absurd to imagine a situation in which 'a subject capable of speech and action could permanently realise the limit case of communicative action, that is, the monological role of acting instrumentally and strategically, without losing his identity".[104]

Although the pre-theoretic knowledge of the life-world cannot be held up to critical evaluation in its totality, specific segments of its content can become problematic and therefore explicitly thematized. In these circumstances "the relevant segment of the lifeworld acquires the status of a contingent reality that could also be interpreted in another way."[105] Habermas claims that in these circumstances, participants resort to communicative action aimed at achieving mutual understanding through the discursive testing of validity claims.

When the background consensus of communicative action is challenged, agents are compelled to engage in a process of argumentation aimed at restoring the unsettled consensus. In argumentation, speakers raise claims which are open to discursive redemption or rejection on the basis of good reasons.[106] He refers to these as 'citicisable validity claims.'[107] The four types of criticisable validity claims that a statement raises are, (1) that it is intelligible; interlocutors are using words and semantic rules in the same way. (2) That the propositional content of the statement is true. (3) That the claim is justified. (4) That it is made sincerely.[108] Claims (2) and (3) are properly thematised and defended only through practical discourse while claim (1) can be redeemed by clarifying the statement using different forms of expression, and (4) is demonstrated through action and consistency.[109] Habermas argues that any competent language user implicitly assumes that they can justify these four kinds of validity claims. A consensus is rational, for Habermas, to the extent that all pertinent evidence is brought to bear and the force of the better argument is decisive against the non-democratic forces of strategic power, manipulation and tradition.[110] Habermas once described the situation which approximates to this form as the 'ideal speech situation' though he now regrets his use of this

term since it has, he suggests, produced misunderstandings.[111]

What is new in modern societies, Habermas claims, is the extent to which the background social consensus of the lifeworld, issues not from custom, but from the discursive achievement of a rational consensus. Habermas suggests that a process of social evolution has lead to social, cultural and personal spheres becoming increasingly differentiated.[112] He suggests: "Growing pluralism loosens ascriptive ties to family, locality, social background, and tradition, and initiates a formal transformation of social integration." [113] Earlier forms of social integration depended upon the *spellbinding* power of comprehensive and uncriticizable world views which Habermas refers to as the 'linguistification of the sacred.'[114] However the differentiation and rationalization of lifeworlds renders it increasingly untenable to formulate any concept of collective identity in terms of fixed contents.[115] The reproduction of lifeworlds reveals and accelerates the differentiation between the *contents* of the lifeworld and its universal *structures.*[116] Habermas looks to this latter feature as a basis for social integration and emancipation for fragmented societies.

The functions of cultural reproduction, social integration and socialisation that the lifeworld performs can no longer be guaranteed by the traditional and unreflective agreement of a shared form of life and must instead be secured by a 'risky search for consensus.'[117] In these circumstances Habermas argues, a viable collective identity must be "grounded in the consciousness of universal and equal chances to participate in the kind of communication process by which identity formation becomes a constant learning process."[118] This identity, Habermas thinks, can no longer be defined in terms of 'association' or 'membership'. Individuals are no longer identified primarily as bearers of ascriptive identities, but as "participants in the shaping of a collective will underlying the design of a common identity."[119]

Hence "For Habermas, the emergence of 'rationalised life-worlds' carries with it the growth of spaces in which traditional norms lose their efficacy in favour of rationally motivated discourses."[120] The pace of social change widens the horizon of what can be explicitly thematized in discourse. It is this process that Habermas refers to as 'rationalisation'. The term is intended to denote the 'thoroughly positive' sense in which the traditions are laid open to critical appropriation.[121] Habermas now acknowledges that the term 'rationalisation' might have

been too 'harsh' a term by which to describe this process to the extent that it downplays the fact that the life-world requires an already existing background consensus as a stabilising force for contemporary social life.[122] This background consensus cannot be explored at will since it contains multifarious ideas that are so unreflectively accepted that they constantly evade promblematisation and thematization and are therefore beyond the scope of the argumentative practices defined by discourse ethics.

2.3 Discourse ethics

Habermas suggests that Arendt's account of communicative action is an insufficiently demanding conceptual category for a truly critical theory insofar as it fails to develop a coherent account of communicative rationality, or to suggest a cognitive basis for convictions. Habermas's moral theory, by contrast, asserts that claims to normative rightness can be understood as analogous to claims to factual truth, on account of the fact that the same argumentative practices are adopted in each case, employing the idealizing supposition of consensus. Like Arendt he insists that collective life should be mediated by intersubjectively derived norms and that these perform a vital role in social integration. What distinguishes Habermas's account from Arendt's, is the further claim that these norms take the form of 'generalisable interests' and have a strongly rationalist basis that transcend particular contexts.

Habermas argues that Arendt fails to tease out the potential for distinguishing illusory from non-illusory convictions that her own account of praxis provides. Though she recognises the potential for intersubjective understandings to arise out of communicative contexts, she is unable to find a cognitive basis for common convictions. He appears to regard his own cognitivist account of 'discourse ethics' as being simply a clarification of the confusions that he attributes to Arendt's account of communicative power. He thus regards Arendt's conception of communicative power as, in some sense, a prefiguration of his own discourse ethics.[123]

Leaving aside the veracity of Habermas's critique of Arendt, it provides an interesting, and informative, prelude to an analysis of discourse ethics on account of the fact that the strong cognitivist lines upon which he subsequently develops his account of discourse ethics are already prefigured in the way that this critique is formulated.[124] He attributes the weakness of Arendt's approach not merely to the fact that she fails to develop criteria according to which

common convictions can be evaluated and judged better or worse, but that she is unable to bridge the 'yawning abyss' that separates knowledge from opinion.[125] The idea that normative claims can encompass moral knowledge is at the heart of Habermas' cognitivist account of discourse ethics.

In considering what it means to justify something morally, Habermas distinguishes between cognitivist and non-cognitivist approaches.[126] Non-cognitive approaches regard supposedly objectively grounded positions and judgements as illusory. He makes a further differentiation between 'weak' and 'strong' versions of non-cognitivism, but the relevant point to note here is that on any non-cognitivist account, practical reason assumes, at best, the purely instrumental role of identifying the best means to procure subjectively determined ends.

Cognitivist approaches also admit of a distinction between 'weak' and 'strong' variants according to Habermas, though both afford a broader scope for the exercise of practical reason than is allowed by non-cognitivist accounts. On the weak cognitivist approach, ethical questions admit of rational evaluation, but practical rationality is limited to evaluating options from the point of view of a shared form of life. An agent takes into account a shared social world in judging options 'better' or 'worse' and to this extent "the life that is good for me also concerns the life that is common to us."[127] But practical reflection cannot transcend the boundaries of a specific form of life and so is limited to the role of "hermeneutic self-clarification."[128] In contrast to strong cognitivism the weak cognitivist approach does not make claims to context-transcendent truth and its limits are met as soon as questions of justice come into play, according to Habermas.

Questions of justice emerge as we approach the moral outlook and "begin to examine our maxims from the point of view of their compatibility with the maxims of others."[129] This requires, Habermas thinks, that participants adopt a hypothetical attitude to their particular substantive commitments as a condition of engaging in the discursive redemption of validity claims. Only the strong cognitivist approach can determine the categorical validity of moral obligations from a perspective that accords priority to the right over the good.[130] That is, from a perspective which goes beyond the context-bound ethical question of what is good 'for me' or 'for us' and considers instead what is equally in the interests of all. Habermas formulates the

principle [U] as the criterion according to which norms can be judged valid or impartial. It states that:

> "a norm is valid when the foreseeable consequences and side effects of its general observance for the interests and value orientations of *each individual* could be freely accepted *jointly* by all concerned."[131]

Habermas argues that "the universalisation principle acts like a knife that makes razor-sharp cuts between evaluative statements and strictly normative ones, between the good and the just."[132] He attempts to reconceptualize Kant's formalistic ethics and its basis in the two criteria of generalizability and autonomy.[133] Habermas retains the criterion of autonomy, understood as independence from contingent (heteronomous) motives, while detaching the idea of universalizability from the monological testing of norms according to the categorical imperative. This approach therefore differs from Rawls's Kantian inspired approach to the justification of moral norms, which follows Kant in "[operationalizing] the standpoint of impartiality in such a way that every individual can undertake to justify basic norms on his own."[134] Here Habermas is influenced not only, or not primarily, by Arendt's emphasis on intersubjectivity, but by the decentring of the subject driven home by the 'linguistic turn' in modern philosophy and the consequent appreciation of the mutual dependence of consciousness and language. The linguistic turn renders implausible the idea that moral norms can have a foundational premise anterior to the social structure.

Habermas's discourse ethics aims to provide a criterion of moral validity that can ground a context transcendent ideal of justice outside the domain of private morality. It is, he argues, a demanding conception of justice in that it requires the individual to justify his claims through actual discourse.[135] Habermas's moral theory as formulated by [U] *already* embodies the principle of discursively testing norms as an essential prerequisite of moral validity. However, it is through the formulation of the principle of discourse [D] that Habermas arrives at an account of how the moral point of view can be operationalised in practice. The principle of discourse [D] states that:

> "only those norms can claim validity that could meet with the agreement of all concerned in their capacity as participants in a rational discourse."[136]

Discourse ethics is an attempt to specify formal conditions for actual deliberative

practices that can regulate collective life not only through 'acting in concert' by way of the potential for practical rationality that Habermas argues inheres within action aimed at achieving mutual understanding. As we have seen, Habermas argues that the logical and semantic rules (defined by the ideal speech situation) to which all competent participants in practices of argumentation are necessarily bound, become increasingly differentiated from the contexts in which they operate as a consequence of the rationalization of lifeworlds. This differentiation between the structure and content of lifeworlds renders it possible to explicitly formulate these logical and semantic rules as *argumentative* duties and rights for participants in practical discourses. When these are subsequently translated into formal rules of actual practical discourse, the communicative presuppositions of argumentation take on the character of *moral* duties and rights. These include the right of all competent participants to take part in the discourse, to introduce any assertion or express any need or desire, and not to be prevented from exercising these rights by 'internal or external coercion.'[137]

The advantage of operationalising the discourse ethic in procedural terms, through the specification of the formal rules of practical discourse, is that it does not specify the substantive content of norms.[138] On this view the criterion of reasonableness does not depend upon bracketing the pluralism of world-views, at least in the strong sense of abstracting from the particular features of a concrete identity, nor does it specify the substantive content of norms. This potentially affords it a wide scope for the culturally sensitive determination of substantive norms.

Habermas has attempted to further qualify the procedure of practical discourse by suggesting that it is relevant, not only for the determination of moral norms where the strong idealizing supposition of consensus is met, but also for ethical and pragmatic discourses which will also feature in practical deliberations.[139] Pragmatic discourses are concerned with "making a rational choice of means in the light of fixed purposes or of the rational assessment of goals in the light of existing preferences."[140] They utilise a purposive as opposed to a communicative form of practical rationality. In order to clarify what is understood under the term 'ethical discourse', Habermas draws on Taylor's idea of 'strong evaluation.' From their non-trivial preferences individuals engage in enterprises of 'hermeneutic self-clarification' and orient

themselves to the good defined in terms of who I am (we are) or, would like to be.

Habermas's strong claim is that only the moral point of view, which judges norms according to the principle of universalisation can adequately describe a conception of justice, and that justice must have priority over other norms. Put simply, norms defined in ethical and pragmatic discourses must not be incompatible with justice. Whereas failure to realise ends that I, or we, have determined to be good, or self-deception about what constitutes the good, may result in inauthentic forms of identity for individuals or collectives, this is ultimately a contingent matter. The good of self-realisation does not carry with it the categorical ought of moral injunctions. Pursuing an authentic existence is tied to the conscious acceptance of a pre-ordained *telos.* Habermas terms discourses relating to the self-clarification of a form of life as 'clinical discourses' to distinguish them from 'moral discourses' which focus on questions that can be considered from the standpoint of justice.[141]

3. DISCOURSE AND POLITICS: CRITICAL PERSPECTIVES.

3.1 The right and the good

As we have seen, Taylor denies the possibility that we can define a moral perspective which is 'equally in the interests of all' that trumps the ethical perspective 'that is good for me/ us' in virtue of a claim to moral validity or 'truth'. While Taylor acknowledges that the need to define a moral core that can serve as a point of convergence for agreed standards of human rights is a pressing one for modern societies he insists that "the wrong way to try to do this is through some epistemological distinction: the core would be in some way more obvious, less contentious and open to dispute than understandings of the good life."[142] As we have seen, Taylor himself seeks to reconstruct standards of practical rationality according to which norms can be tested according to the normative ideals and evaluative perspectives inherent in a specific cultural form of life. This renders him more in line with the 'weak cognitivist approach' as this is defined by Habermas.[143]

Both Taylor and Habermas develop their moral philosophy in conjunction with a social theory that tries to conceptualise modernity as a whole.[144] Both emphasise the significance of

the 'linguistic turn' in modern philosophy in calling into question the idea of context-transcendent standards of moral validity and practical reason. Taking on the idea that language and understanding are equally original, both offer a reconstructive approach to moral theory that takes as its starting point the idea that identity is constituted dialogically and social interaction is mediated linguistically.[145] The reconstructive approach to social theory allows for the development of a form of critique according to which existing practices can be described and criticised by the elucidation of norms, which have 'implicit' significance for the addressees. This means that "before they can be considered implicit standards, the norms that are to provide the underpinning for the critique must first be educed interpretatively, in a 'reconstruction', from the semantic field of the existing social practices."[146]

Axel Honneth has drawn from the work of Kauppinen a distinction between 'strong' and 'weak' approaches to reconstructive critique suggesting that while Habermas is engaged in the former, Taylor is in line with the latter approach. The two 'versions' of the 'reconstructive' form of social criticism are as follows. The first form of critique makes 'weak' claims, "it treats the implicitly practised norms as having only a contingent, particular character." The second form of critique embodies the 'stronger' aspiration, to point to "the universal necessity of those implicit norms". [147] Habermas finds in the formal properties of discourse ethics a procedural criterion of universalizability that is separable from the substantive content of norms, and can account for their bindingness. In contradistinction to Taylor then, "Habermas believes that the possibility of the universal and unconditional bindingness of the class of maxims and reasons for action that we call moral can be salvaged from the linguistic turn."[148]

Taylor is critical of Habermas's ethical formalism which posits a strict separation between questions of justice and the good life. He argues that the moral, rather than being a context transcendent perspective which issues morally binding norms, is in fact inseparable from the ethical. He states, "our deliberations on those purposes to which we *should* accord recognition are inextricably linked to those considerations on what we as humans *are.* As a consequence, questions of morals are closely tied to theories of human motivation."[149] The ethical, in Taylor's view, not only defines the goods that need to be weighed up in common deliberation, it also gives content to an individual's identity and is therefore the principal source

of moral motivation.

Taylor draws a distinction, discussed in Chapter Two, between 'cultural' and 'acultural' theories of modernity in order to highlight the extent to which Habermas's 'strongly' cognitivist moral stance, and the consequent account of motivation is dependent upon his theory of modernity as rationalisation.[150] To recall, acultural theories of modernity tend to view historical transformations in terms of the progressive realisation of underlying structures of rationality. The capacity for rationality is conceived in general or anthropological terms such that any specific culture could serve as 'input'. By contrast, 'cultural' theories of modernity define historical transformations from the point of view of the substantive ideals that define a particular cultural constellation. In interpreting modernity in terms of a 'growth in reason', Habermas, Taylor argues, uncritically adopts the 'acultural' view of modernisation borrowed from Weber.

Habermas assumes that the differentiation of the value spheres of factual truth, normative rightness, and personal authenticity, unquestionably represents 'progress'. The process of secularisation means that science and technology, along with the personal quest for authentic self-realisation, can be liberated from the confines of holistic world-views. Furthermore, as this differentiation brings the formal and structural requirements of processes of argumentation aimed at mutual understanding into view, a formal ethics of justice can be defined.

Taylor points to the 'situatedness' of practical reason in a substantive ideal of ethical life and thereby entreaties us to reflect upon the unarticulated ethical commitments of discourse ethics. Although on Habermas's view, an achieved consensus on moral questions is not dependent upon a shared ethical understanding, an understanding which is bound to be problematic in diverse societies, it may be dependent upon a specific Weberian concept of modernity which assumes an unproblematic differentiation of value spheres that nevertheless share the same trajectory towards increasing rationalisation. It also depends upon a conception of the self that fits the contours of this theory of modernity.

3.2 Discourse and consensus

Several theorists have drawn attention to the difficulties that attach to identifying the

truth of normative statements with a voluntary consensus reached under the conditions stipulated by [U].[151] Philosophers have pointed to the problems of a consensus theory of truth as this idea is pursued by Habermas and Karl-Otto Apel. Nicholas Rescher has related the serious difficulties that attach to the proposition that "consensus stands co-ordinate with truth: that where there is consensus there is truth and where there is truth it will ultimately enforce a consensus through its inherent attractions."[152] Habermas argues that consensus plays a constructive role in establishing moral validity which it does not perform in relation to factual truth. However in terms of the argumentative processes through which these different sets of truth claims are constructed or discovered, his theory admits of no differentiation and this has been one of the main points of criticism about discourse ethics.

It should be noted that Habermas regards the condition of an achieved consensus as being counterfactual in most instances.[153] In fact, he suggests, "given the differentiated forms of life characteristic of pluralistic societies, such an effort is doomed to failure."[154] He argues, however, that despite the participant's acknowledgement that they hold competing conceptions of the good, "they nevertheless remain resolved to engage in deliberation and not to fall back on a mere modus vivendi as a substitute for the threatened way of life."[155] In so doing they must retain the idea of consensus as an 'idealizing supposition' of serious discourse.[156]

Rescher makes a useful distinction between an *ideal* and an *idealization.* Ideals refer to values such as liberty and equality, or other pre-eminent goods whose pursuit in practice may reasonably be deemed 'a good thing'. In contrast,

> "An idealization involves the projection of a hypothesis that removes some limit or limitation of the real (a perfectly elastic body, for example, or a utopia comprised only of sensible and honest people). An idealization is accordingly a thought-instrument---a hypothetical state of things that it may be profitable to think about, but towards whose actual realization in practice it may be altogether senseless to work for. And so, while idealization can provide helpful in theoretical matters, in practical matters it can often do damage."[157]

He contends that it is deeply problematic to construe consensus as an unqualifiedly good practical ideal in any 'sizeable human community', which will inevitably comprise diversity along lines of value, belief and opinion. For this reason, the *ideal* of consensus cannot be action guiding. Perhaps then, it is like a perfectly elastic body, an ideal that it would not be advisable

to strive to realise in practice, but which can nevertheless serve a useful function as an idealization. Rescher notes however, that in practical situations, theoretical *idealization*s can be stultifying and distorting of real life contexts.

Iris Young has cogently argued that this is certainly the case in respect of the idealizing supposition of consensus that it is assumed, on Habermas's account, will guide practical discourse. Young recognises the advantage of a communicative conception of impartiality in providing for a context-sensitive approach to discourse, over the abstractive version proposed by Rawls which, she thinks appeals to the impossible supposition of a view shorn of all particularity, in short, a 'view from nowhere'. Her account suggests, however, that the concerns raised by Fraser in response to Habermas's early conceptualisation of the public sphere about its propensity to 'bracket' particularity, have not been fully met by his theoretical reorientation to discourse ethics.

Habermas's formulation does not tie impartiality to the standpoint of the monological subject purged of particularity, but focuses on practical deliberations among participants. Since it is a purely formal or procedural ethic it does not, Habermas claims, keep any issues from the agenda of public debate or pre-judge the outcome of deliberations. Rather, it includes all subjects capable of speech and action and suggests that discourse can have a transformative effect upon individuals by prompting them to revise their own claims in the light of the equally legitimate claims of others. Ultimately however, Young finds the 'view from everywhere' every bit as unconvincing as 'the view from nowhere' as a standard of impartiality.

Even considered as a counterfactual ideal, the 'idealizing supposition' of consensus, structures discourse in subtle and ideological ways, Young suggests. Firstly its emphasis on argumentation tends to privilege a particular language paradigm.[158] Young claims that despite the formal rules of discourse which are intended to give all a fair hearing, Habermas's emphasis on argumentation will subtly privilege certain modes of expression. More damagingly still, the modes of expression privileged are those that are already dominant within a culture shaped by bourgeois parliamentary traditions. Since the rules of the game have been set up within a particular power nexus that has privileged white, middle class males "speech that is assertive and confrontational" will have greater political capital than speech that is "tentative,

explanatory or conciliatory"[159] according to Young.

Young also argues that Habermas's discourse ethics does, ultimately, require individuals to abstract from their own particular values and needs. Discourse ethics aims to be inclusive of persons and issues, and values attentiveness to the needs and values of others as these are expressed in the course of practical deliberations. Habermas emphasises that a lack of bias in outcomes will only be achieved in circumstances where people represent their own interests and views when considering the application of norms. However, the role played by the idealizing supposition of consensus in both the justification and application of norms appears to impose stringent burdens of public reason upon participants in deliberation, who must aim to find common ground with one another by relativising their own needs, desires and value orientations against the possible objections of others.[160]

Critics have argued that even this demanding condition provides no guarantee that this process would issue in agreement within the limited time frame within which political decisions must be reached through this idealised process. As Rescher puts it, "life is simply too short for endless ventures in thought co-ordination."[161] Furthermore, within societies comprising disparate national, cultural, ethnic, and linguistic groups, it would require considerable imagination and generosity on the part of citizens. To genuinely strive for consensus in the context of modern diverse societies, citizens must be capable of tremendous abstractive achievements. Yet the more the universal point of view requires abstraction from an individual's particular attachments, the more the likelihood diminishes that it 'could aid reflection that could lead to action at all', according to Young.[162]

It might be more convincing to approach the same point from a different direction. Instead of taking up the bulk of the theoretical work in trying to disprove the theory by appeal to counter arguments, we could simply pose the question to the theorist of discourse, 'Assuming that the idealizing supposition of consensus is a requirement of a discourse which aims at rational understanding, why should I, as a participant in discourse, take up this perspective'? This is the kind of approach which Charles Taylor adopts:

> "The fact that I should argue with the aim of achieving domination-free understanding may admittedly be structurally implied by the logic of discourse. If, in other words, I attempt to assert my own interests irrespective of all the objections of other participants to the

> conversation raise, then I certainly violate the logic of the discourse. But why should I not do this? Why should I not attempt to reach my desired goal at the cost of being slightly inconsistent?" [163]

A formal ethics must make assumptions about the kind of agents that chose to utilise its commands to regulate their life in common and to that extent they appear to rely upon substantive conceptions that remain hidden from view.

According to both Taylor and Young, the counterfactual abstraction that is implied by the requirement of idealization, but cannot be maintained by a serviceable account of practical reason, creates a vacuum which will inevitably be filled by substantive convictions deriving from particular cultural understandings, experiences and traditions, only now, these are cloaked in a false objectivity as facts about human nature or moral psychology. [164] The contention here is that procedures which attempt to tidy up the untidy pluralistic basis of ethical life through prioritising uniformity and consensus, are likely to reinforce ethnocentric prejudices. Standards that make a claim to context transcendence often turn out to be the expression of the rather more parochial values of a particular form of life. In so far as this is true of Habermas's discourse ethics, it reneges on its own promise to offer a critical perspective on society.

Conclusion

As we have seen, Habermas's theory of discourse is closely tied to his theory of modernisation. Having taken leave of a philosophy of history and acknowledged that modernity can no longer be understood as the progressive realisation of liberal humanist ideals, he suggests that the normative content of modernity can be retrieved through the universalistic potential of speech to provide the foundation for a collective identity in rationalised lifeworlds. Habermas wants to preserve something of the Enlightenment faith in rationality, by supposing that individuals and groups can, through learning processes, come to adopt a critical and reflexive attitude to their substantive world-views, offering an expanded potential for action. Jan-Werner Müller has contended that Habermas' insistence on the 'gains in rationalization' achieved since the Enlightenment can be seen as "an almost liberal notion of progress by another name." [165]

In the following chapter I will consider Habermas's more recent work on democracy

and law. He continues to define the normative core of democratic legitimacy in discourse-theoretic terms, but recognises that the conditions for democratic legitimacy are not reducible to the conditions for rational discourse. The legal or constitutional perspective is required as a complementary aspect of the analysis of democratic legitimacy whose normative core is defined in discourse-theoretic terms. As Albrecht Wellmer has incisively noted, neither the 'category of individual rights', nor 'the normative substance of democratic cultures' can be conceptually derived from any concept of discursive rationality.[166]

I will suggest, however, that Habermas's faith in progress remains crucial, being used to foreground the moral perspective in the practice of constitution-making. The consequence of this is that democracy is not conceived by Habermas as a practice for securing peaceful co-existence on terms that are acceptable to all, but as a process that aims at consensus and emancipation. This continued privileging of the moral point of view in this later work has continued to trouble some commentators who have suggested that the bracketing of particularity, which is purportedly required by discourse, is translated into the impaired inclusion and marginalisation of some identities from the political organisation of the constitutional state.

Chapter Five. Jürgen Habermas: *Deliberation, Diversity and the Constitutional State.*

Introduction

From his earliest work on *The Structural Transformation of the Public Sphere,* Habermas has attempted to advance the project of radical democracy, inaugurated by Rousseau and Marx, in which rational collective self-determination takes precedence over the competing interests of individuals, as the organising principle of political life. However, "[he] takes great pains to distance himself from the holistic or totalistic conception that often accompanies this version of democracy and in which society is regarded as a kind of macrosubject integrated via a central agency (the state) or organizing principle (labour)."[1] Instead, he develops a procedural conception of democracy in which the democratic process itself is made to bear the whole burden of legitimation (BFN 450). He continues though to locate the normative core of democratic politics within a semi-autonomous public sphere, which realises a non-instrumental, participatory style of discursive opinion- and will- formation. He maintains that only where democratic procedures are connected with a deliberative politics of this sort can the outcomes of democratic decision-making be presumed to be rational. In linking democracy to a 'rational principle of legitimation', rather than to forms of organisation

marked out apriori, Habermas seeks to develop a deliberative ideal of democracy which is distinct from both liberalism and republicanism while incorporating the insights of each.

In the previous chapter the evolution of Habermas's conception of 'Discourse Ethics' was traced from his early reflections on the public sphere to his critical appropriation of the Arendtian idea of communicative power. It was noted that one of Habermas's central aims was to disengage the normative ideal of discursive interaction from the infrastructure of the bourgeois constitutional state, and to locate it in the unimpaired structures of intersubjectivity that define the everyday communicative practices of the lifeworld. Habermas conjectures that the 'unfinished project' of modernity can be redeemed by switching from a philosophy of consciousness with its associated monological conception of rationality, to an ethics rooted in the structure of discourse and a paradigm of communicative rationality.

This conception of 'discourse ethics' plainly supports a certain style of politics, which, as we have seen, has been criticised for its attempt to segregate questions of morality from conceptions of the good life. This is, Taylor thinks, to insulate precepts of obligatory action, from their motivational source in identity and ethics. Similarly, the strong emphasis on consensus has been criticised for placing unrealistic burdens upon individuals to abstract from their own particular attachments. Habermas turns to discourse ethics as a way of making sense of the radical democratic project from a perspective that is critical of a philosophy of consciousness. The source of social integration is found in a paradigm of intersubjective understanding realised in actual discourses which approximate ideal conditions. However, though this places us in a strong position for understanding the style of *politics* that Habermas envisages, it gives little indication as to the conception of *government* that may best correspond to this vision.[2]

It is for this reason that I turn now to Habermas's recent work in which he has attempted to spell out the implications of his 'discourse ethics' within the context of the modern constitutional state. In so doing, Habermas has gone some way to meeting some of the most damaging objections raised in relation to discourse ethics. Habermas now argues that law can serve as a functional complement to morality through its internal relation with democracy. The state can thus compensate for the motivational uncertainty that attaches to abstract moral

injunctions, in light of its ability to enforce procedural norms and uphold individual rights. Furthermore these rights serve only as 'placeholders' prior to the exercise of political autonomy. The determinate content of positive law is given only through the historical process of constitution-making linked to the ethno-cultural nation. Positive law is thus, not only a systematic steering medium which can secure compliance to moral norms, it is also, he suggests, a 'transformer' between the weakly integrative forces of the lifeworld and the administrative state (BFN 176). A central place is retained for a conception of the public sphere in Habermas' model of the constitutional state since positive law is always open to the processes of intersubjective communication that take place in the lifeworld, including ethical and pragmatic discourses.

This chapter will first, provide an outline of Habermas's conception of the constitutional state. Secondly, I will consider how far these adjustments go in meeting the challenges of a modern pluralistic society. From his exchange with Charles Taylor on the 'politics of recognition' it is clear that Habermas does not attribute to culture and cultural pluralism the same normative status that Taylor does. His theory of the constitutional state does allow considerable latitude for social and cultural rights and protections, but these are understood in terms of protecting the intersubjectively constituted identities of *individual* legal subjects. They cannot, Habermas thinks be conceived as institutional guarantees designed to ensure the survivance of threatened cultural groups. Habermas's account also offers scope for the development of political loyalties and attachments that Taylor regards as being a necessary corollary of the idea of popular sovereignty. He allows that the constitutional state is 'ethically patterned' and to that extent will have a distinctive political identity, which will reflect its historical experience and be responsive to the changing cultural and social composition of its members.

However, this cultural mode of integration cannot be the primary aim of the constitutional state for Habermas. In particular, the political identity of the state cannot be expected to mirror the different identities of its members by seeking to protect these identities by way of legal statutes. The political identity that binds individuals to a distinctive historical, cultural and territorial unit cannot be incompatible with the primary source of social integration, which is located in discourse and the requisite social structures of post-conventional moral

consciousness. For these reasons Habermas's theory of the constitutional state offers more qualified forms of cultural protection and affirmative recognition than does Taylor's and thereby avoids the three difficulties that were found to be associated with Taylor's account.

In the final section, I will consider Habermas's appeal to idea of constitutional patriotism as the basis for a post-national belonging. I suggest that his attempt to define a specifically political relationship which is not tied to a common culture or ethnicity is a potentially promising basis for modern democratic citizenship. In situating the constitution-making process within the spatio-temporal horizons of a particular political community, Habermas addresses the second boundary-drawing problem considered in Chapter One in a way that identifies 'the people' as the 'constitutive power'. I suggest that this is a more satisfactory account than is provided by Taylor who, while not ignoring the problem as liberal approaches have tended to, concedes too much to the romanticised republican idea of an already integrated macrosubject. Habermas recognises that the same processes of modernisation that have made structures of recognition problematic, also close off the possibility of making democratic legitimacy conditional upon finding a shared ethical standpoint on the basis of which just and transparent relations of mutual recognition can be delineated. Ultimately though, Habermas's attempt to provide a purely procedural conception of democracy as the only means of compensating for the disintegration of shared value orientations, is also unsatisfactory to the extent that it side-lines questions of moral motivation and fails to offer an adequate account of political judgement.

1. DEMOCRACY AND THE CONSTITUTIONAL STATE

In *Between Facts and Norms* and a number of political essays published in recent years, Habermas returns to the concerns that animated his earliest work on the Bourgeois public sphere.[3] In *The Structural Transformation of the Public Sphere,* he defends the idea of generalisable interests as a source of legitimate law which can underpin the democratic ideal of self-sovereignty in modern complex societies. This same basic theme re-appears in his work since the early 1990s, and receives its most comprehensive treatment in *Between Facts and Norms.* In this work the project is more ambitious since it attempts to underwrite a concept of

'generalisable interests' by appealing to discourse ethics *and* to explicitly formulate the conceptual relationship between democratic legitimacy and modern positive formal law. Acknowledging that the conditions for democratic legitimacy are not reducible to conditions for rational discourse, Habermas draws on the mode of reconstructive analysis outlined in the foregoing chapter, to bring to light what we must already assume in participating in democratic and constitutional practices.[4] His long-standing aim has been that of "deciphering… … the normative meaning of existing institutions within a discourse-theoretical approach."[5] He aims to present an interpretation of the implicit normative values of democratic constitutional states that is more resonant with existing self-conceptions than are liberal or republican alternatives.

1.1 Facticity and validity

The aim of this reconstructive approach is to connect up political theory and legal theory, since he finds the former in danger of losing contact with social reality, while the latter threatens to screen out all normative considerations (BFN 6-7). This project then, clearly has affinities with his aim examined in the previous chapter, to complement the normative account of communicative action, developed from the perspective of action theory, with a functionalist analysis drawn from systems theory. However in his later work Habermas turns more explicitly to law, suggesting that the legal medium can reconcile the functional need for social integration in complex societies, with the requirement of validity and legitimacy. Habermas's most comprehensive examination of this idea is offered in *Between Facts and Norms,* which takes its title from the identification of a paradoxical duality within modern law, arising from the internal tension between facticity and validity.[6]

On the one hand enacted law takes on the form of positive rights, which can be enforced by the coercive power of the state. Here law has the quality of facticity. Its content takes on the form of empirical facts that can effectively co-ordinate social interaction. However, law is also more than just an instrument for controlling behaviour. Most people obey the law not simply because of fear of punishment, but because they think that it is right and that its sanctions are legitimate. This tension within modern law, between facticity and validity, is experienced by the individual who can adopt either a strategic or performative attitude to it (BFN 448). "Depending on the chosen perspective, the legal norm presents a different kind of

situational element: for the person acting strategically, it lies at the level of social facts that externally restrict her range of options; for the person acting communicatively, it lies at the level of obligatory expectations that, she assumes, the legally community has rationally agreed on" (BFN 31). Habermas suggests that, at least some of the population, indeed the majority, must look at legal rules as standards that everyone ought to follow for good reasons rather than through fear of sanction.[7] A stable society requires that legal codes exist not just as social facts, but that as well, they secure widespread acceptance on the basis of their perceived legitimacy. Habermas's project is therefore to establish a procedure for legitimate lawmaking based on 'discourse ethics', which can warrant the assumption that the legal-political decisions arising from it, express a general interest which could meet with the rational agreement of those subject to them. This can he thinks, avoid the central difficulties that pertain to the two main alternative contenders of liberalism and republicanism and their respective emphases on human rights and popular sovereignty.

1.2 Popular sovereignty and human rights

1.21 *Liberalism and republicanism*

Habermas notes that the tension between facticity and validity, which is present in modern positive law has no equivalent in the moral sphere. The tension arises as a specifically modern political problem since it depends upon the existence of a sovereign authority which can enforce collectively binding decisions and can do so legitimately only on the basis that this represents an act of self-legislation on the part of the governed. Habermas holds that self-legislation forms the basis of legitimacy for positive law within modern democratic states.[8] However, this insight has been obscured in contemporary political philosophy due to differences between the way in which the liberal and republican traditions have conceived of this idea of self-legislation. While liberals have typically emphasised human rights as the outcome of principles and procedures that can be the object of rational acceptance, republicans have focused on the ideas of popular sovereignty and collective self-determination as the fundamental basis for political and legal authority. Habermas explores the historical basis of what he takes to be a concealment of the conceptual interdependence of ideas of human rights and popular sovereignty, and relatedly of private and public autonomy, to the social contract

theories that accompany the rise of modernity, particularly those of Kant and Rousseau.

One of the distinctive features of modernity is the collapse of an encompassing societal ethos which ensured that cultural value patterns and institutions overlapped with the action orientations and motives of individuals. As we have seen, Habermas identifies positive potentials in the situation of modernity whereby political authority can no longer feasibly be grounded in ideals about the highest or most truly human form of life. He interprets the situation in which horizons of value can no longer be taken for granted, but must be reflexively appropriated as a 'rationalization of lifeworlds'. One of the features of this rationalization, Habermas maintains, is a sharper distinction between moral and ethical questions[9]. Apart from demarcating two different sets of issues, this distinction between the moral and the ethical goes deeper, according to Habermas, indicating two different logics of discourse focused on ideas of self-determination and self-realisation respectively. He suggests that within political theory, the supposed tension between human rights and popular sovereignty is constructed fallaciously, due to a long-established tendency to relate these actually complementary ideals with the competing logics of self-determination and self-realisation. Hence ""liberal" traditions conceive human rights as the expression of moral self-determination, whereas "civic republicanism" tends to interpret popular sovereignty as the expression of ethical self-realisation" (BFN 99). From each of these equally confused perspectives, human rights and popular sovereignty are perceived as being in competition with one another, and what Habermas takes to be their true relationship of mutual complementarity, is obscured.

While modern philosophy has tended to prioritise one of these vocabularies over the other, Rousseau and Kant both attempted to find a reconciliation between these two perspectives, though each was ultimately unsuccessful. Rousseau intuits that human rights are tied to the exercise of popular sovereignty but fails to carry through the full implications of this important insight. This is, according to Habermas, because he develops an ethical, as opposed to a procedural interpretation of popular sovereignty. That is, he interprets politics as a project of self-clarification within a concrete political community. Rousseau effectively replaces the absolute monarch with the sovereign people. The political community comes to be seen as a macrosubject exacting a price of self-abnegation from individuals for the pursuit of collective

ends.[10] This clearly places excessive ethical demands upon citizens which cannot be realised within modern large scale democracies (BFN 102). As autonomous individuals cut loose from traditional forms of social integration, and divide over conceptions of the good, the members of modern political communities must establish criteria according to which the general will can be identified as such. In failing to offer any such criteria, Rousseau neglects the issue of validity, and fails to offer any basis for criticising either positive law, or the legislative process that gives rise to it.

While Rousseau neglects the need to find a non-coercive and genuinely universal basis for the exercise of popular sovereignty which could legitimate its outcomes, Kant ties this universal perspective too closely to morality. For Kant, the principles of private law, though not the positive content of human rights, are understood as moral principles, which are put ahead of political will-formation. He seeks to secure a basis for human rights in a moral context that is ultimately independent of the political sphere.

Habermas finds both accounts wanting, since neither fully comprehends the internal connection between human rights and popular sovereignty which rests with the insight that the addressees of the law must be simultaneously its authors. In contrast with the liberal view, fundamental law and human rights should not be seen as an extra-political limitation on the exercise of public autonomy. And, in contrast with the republican view, rights cannot be put in the service of, and at the same time made subservient to, a sovereign legislator. Rather what is required is a constitutional arrangement which respects and preserves the relation between private and public autonomy. Habermas argues that private and public autonomy actually require each other, that is, they are 'co-original.'[11]

1.22 *Law and morality*

Habermas insists that Kant's attempt to assimilate law and morality is misleading. He states, "Modern compulsory law can demand only that its addressees behave in a legal manner: that regardless of one's motivation, one behave in conformity with law."[12] Having this compulsory component, he suggests, positive law can compensate for the motivational deficits built into a post-conventional conception of morality. Habermas acknowledges that the

transition from a traditional customary ethics to a reflective post-conventional mode of justification exacts a price in terms of 'a problem of expectations.'[13] While the criterion of universalizability can guarantee the validity of a norm, it cannot assure obedience to it. A norm which passes the universalizability test can only exact compliance on the condition that its general observance is somehow assured. The coercive element of law can stabilize behavioural expectations, according to Habermas, only by ensuring general compliance.

Equally, however law must extend beyond legality by adducing normative grounds for obedience. Habermas argues that "in the role of persons who act morally, legal persons must also *be able* to follow the law out of respect for the law."[14] This implies that valid (in the sense of existing) law can be accepted as legitimate on the basis that it has come about through a legitimate process of democratic will formation.[15] The constitutional state must make available the "normative expectation that the legal system as a whole deserves recognition for good reasons."[16] Hence the ambiguous relation between facticity and validity, which is embedded in the modern legal form, calls forth an explanation of how the system of individual rights and legislative procedure can itself be legitimated.

1.23 *The internal relation between law and the principle of democracy*

Continuing his longstanding commitment to link up principles of legitimacy and participatory forms of democratic practice, Habermas attempts to outline a procedure of democratic opinon- and will- formation that can "justify the presumption that outcomes are rationally acceptable."[17] For this, Habermas needs to explain how his discourse ethics might be translated into a convincing account of democratic practice. Firstly, it is necessary to acknowledge that legal norms are different in kind to moral norms. On Habermas's account of discourse ethics, moral norms ensue from a maximally inclusive process of public reasoning, which does not "exclude any subject capable of speech and action who can make relevant contributions."[18] Moral norms then, apply to individuals *per se* in virtue of their capacities for participating in the abstract communicative structures that define post-conventional morality. By contrast, legal norms are binding only within a given territory since they apply to citizens only in virtue of their membership of a legally constituted community (BFN 112). The process

for arriving at valid legal norms must respect this differentiation and find a way of realising this strong commitment to public reason within the architectonics of the constitutional state.

Secondly, he recognises that a system of legitimate lawmaking must be sensitive to the fact that "not all material which requires, and is accessible to, legal regulation is of a moral nature."[19] This makes Habermas's model of constitutionalism appear far less vulnerable to the main criticism that Taylor attributes to a politics based on 'segregating moralities', namely that they cannot engage with ethical questions and personal goals and commitments. Habermas accepts that in modern diverse welfare-state democracies, pragmatic and ethical reasons must also play a role in determining the content of positive law.

Thirdly, he claims that the private autonomy of legal subjects is dependent upon their public autonomy as citizens. [20] Habermas asserts that,

> "The demand to orient oneself to the common good, which is connected with political autonomy, is also a rational expectation insofar as only the democratic process guarantees that private individuals will achieve an equal enjoyment of their equal individual liberties. Conversely, only when the private autonomy of individuals is secure are citizens in a position to make correct use of their political autonomy."[21]

Since this co-originality thesis understands private autonomy and civic autonomy as means that enable each other rather than as ends in themselves, both must somehow be realised in equal measure within the constitutional state. This, for Habermas, means understanding the constitution as a procedural device which provides enabling conditions, in the form of basic rights, for forms of communication which utilise public use of reason to ground legitimate law.[22]

Public reason is, for Habermas, tied to the impartial justification of norms in line with the principle of discourse [D] which states,

> "only those norms can claim validity that could meet with the agreement of all concerned in their capacity as participants in a rational discourse."[23]

Since, in his latest work, Habermas has been concerned to distinguish legal norms from moral norms, he now accepts that the discourse principle as an indicator of public reason must be more sharply distinguished from the principle of universalization which serves as a criterion for establishing the validity of moral norms.[24] Having sharpened this distinction, he is able to define a principle of democratic legitimacy that does not tie political opinion- and will- formation to an

ideal of consensus, but to a process that embodies public reason and can be institutionalised and given a legal form. The democratic principle, like the universalization principle derives from [D], but is tied specifically to legal norms.

> "Specifically, the democratic principle states that only those statutes may claim legitimacy that can meet with the assent (*Zustimmung)* of all citizens in a discursive process of legislation that in turn has been legally constituted." (BFN 110)

The principle of democracy institutionalises the idea of self-legislation in the discursive exercise of political autonomy. It is not subordinate to the system of rights, but is at the heart of it since it confers legitimating force on the legislative process (BFN 121).

As we saw in the previous chapter, Habermas suggests that as participants in discourse, individuals must accord one another rights and take on board certain duties. In his later work, he spells out in detail the form that these rights must take as legal guarantees if the legal medium itself is to incorporate the demanding precepts of public reason. These include

1) Basic rights that result from the politically autonomous elaboration of the *right to the greatest possible measure of equal individual liberties.*
2) Basic rights that result from the politically autonomous elaboration of the *status as a member* in a voluntary association of consociates under law.
3) Basic rights that result immediately from the *actionability* of rights and from the politically autonomous elaboration of individual *legal protection.* (BFN 122)

At this point, these rights are not understood as rights against the state or as protections against arbitrary political power, for political power is only brought into being by individuals' exercise of their public autonomy. Rather they "result simply from the application of the discourse principle to the medium of law as such" (BFN 122). They are legal principles which must guide the framers of constitutions, but they do not have any determinate content, since there is no authority that can be appealed to as a source for legitimate law, beyond self-legislation based on the exercise of political autonomy.[25] Hence these basic rights that are so far only abstractly posited take on determinate content only through the exercise of public autonomy.

> 4) Basic rights to equal opportunities to participate in a process of opinion- and will-formation in which citizens exercise their *political autonomy* and through which they generate legitimate law (BFN 123)

With the exercise of political autonomy the legal medium assumes the determinate shape of positive law. Hence private autonomy, which is guaranteed through positive rights, comes into being simultaneously with the exercise of public autonomy.

Since positive law applies only to external and observable behaviour it has no sanction over the beliefs and motivations of its addressees. Political autonomy can only be conferred as a legal right since, "a legal duty to make active use of democratic rights would have something totalitarian about it" [26] Hence, the legally constituted status of citizen, which has we have seen is formed only as a consequence of citizens using their political autonomy to generate political power, "is dependent on the *accommodatingness* of a consonant background of motives and beliefs of a citizen geared towards the common weal."[27] Habermas locates this requisite political culture in a vigorous civil society organised around practices and institutions that embody communicative power.

1.3 Deliberative politics and the political public sphere.

In offering the principle of democracy as a procedure for the determination of a basic set of rights, Habermas spells out what he takes to be the relationship between discourse ethics as a procedure for operationalising public reason, and law as the medium of integration which is essential to modern constitutional democracies. However, neither law nor discursive procedures generate the political power that they regulate. Habermas maintains that "the production of legitimate law requires that the communicative freedom of citizens be mobilised" (BFN 146/7). Here he draws upon the Arendtian idea of communicative power as *jurisgenesis* discussed in the foregoing chapter.

A new and more precise formulation of this idea of communicative power is required however, now that Habermas has offered a more detailed account of the procedural structure of law that political power makes use of (BFN 151). As we have seen, Habermas has attached considerable importance to the notion of the public sphere as a forum for the generation of politically effective communicative power. This theme is first introduced in *The Structural Transformation of the Public Sphere* with the idea that communicative power has a normative force which it is incumbent upon the holders of administrative power to be responsive to. He suggests that from the perspective of democratic theory, the public sphere provides a 'signal'

function (BFN 359). It serves not only to detect and identify those problems that must be processed by the political system, but also to 'thematize' and 'dramatize' them in such a way that they may be taken up and dealt with by the political system (BFN 359).

In distinguishing between *communicatively generated* power and *administratively employed* power, Habermas is necessarily committed to saying something about their relationship.[28] He rejects the hypothesis of "*an action-upon-self programmed by law".*[29] Here the idea is that private and public autonomy might be harmonised through a sovereign agency that transmutes the general will of citizens into the collectively binding decisions of the state administered through the media of law and political power. This idea runs up against the realities of modern pluralistic societies in positing a wholly outmoded view of a society integrated by a shared ethical self-understanding that functions as an 'association writ large'.[30]

He draws upon Bernhard Peter's model of constitutional systems which distinguishes the centre of the political process (the government, judiciary, administration etc) from the periphery (the informal networks of civil society)[31]. Habermas uses this distinction to offer a normative understanding of the political process according to which, decision making at the centre of the political system is legitimate only on the basis that it is responsive to the 'periphery' of the public sphere (BFN 354-356). This "two-track" model "places the burden of political legitimacy on the interchange *between* the formal political system and the informal public sphere."[32] In the case of routine decisions, it is acceptable that these should be made without extensive public debate. However when important normative questions are at stake, deliberation should not be consigned to the centre of the political system, but should embrace the periphery also.[33]

Habermas suggests that actors in civil society can assume a surprisingly active and momentous role in all sorts of political decision-making (BFN 381). Relinquished of the burden of having to decide on political issues, and released from the constraints of organisational maintenance, the informal networks of civil society can provide a forum for free and unconstrained deliberation thereby providing a stronger epistemic and moral basis for democracy.[34] Since discourse requires the exclusion of all motives except the co-operative search for truth, it is realised most authentically in an arena that has some autonomy from the

economy and the state and their corresponding systems logics.

Habermas holds on to the idea that is central in *The Structural Transformation of the Public Sphere* that, "the public sphere functions as a normative concept".[35] In both the earlier and the later work, the concept of civil society plays a crucial role in securing free discussion, generating communicative power and making possible forms of association not dominated by the strategic concerns and power struggles that characterise the market economy and administrative state.[36] He suggests that these associations are "attuned to how societal problems resonate in the private life spheres [and] distill and transmit such reactions in amplified form to the public sphere" (*sic*) (BFN 367). As in his earlier reflections on the public sphere, Habermas cautions that the encroachment of the mass media and large-scale agencies might subvert the core functions of the public sphere. However he continues to regard the decentralized and uninhibited discursive formation of the public will, based on the idea of a rational critical public holding public authority to account as the 'organisational substratum' of the public sphere. He describes the public sphere thus;

> "more or less emerging from the private sphere, this public is made of citizens who seek acceptable interpretations of their social interests and experiences and *who want* to have an influence on institutionalised opinion- and will-formation." [(BFN 367) Emphasis added]

Since this attitude of civic engagement is optional, being made available by rights rather than compelled by legal sanction, the normative source of democratic legitimation in discursive opinion- and will- formation becomes effective "only if citizens do not exclusively use their communicative liberties *like* individual liberties in the pursuit of individual interests, but rather use them *as* communicative liberties for the purposes of a "public use of reason"."[37] Once a basis for authority can no longer be guaranteed through a pre-reflective mixture of validity and power, validity-claims need to be redeemed by argument[38]. What discourse ethics and the discourse-theoretic account of legitimacy assumes is that when a topic or an issue requiring political resolution becomes problematic, people will be motivated to resolve these interpretative disputes or political conflicts by argument rather than by other means.[39]

2. DELIBERATIVE POLITICS AND PLURALISM

Its emphasis on actual participation in democratic decision-making makes deliberative democracy appear particularly well suited to contemporary conditions of diversity wherein common understandings, still less shared orientations for collective action, can't be assumed. Like Taylor, Habermas decries the potential escalation of 'civic privatism' in modern welfare state democracies. Habermas is particularly critical of the potential inherent in juridical approaches to reduce the status of 'citizen' to that of 'client'. This problem has not only a theoretical basis connected with the one-sided emphasis on rights characteristic of many liberal approaches, but also a structural one associated with the propensity of the state and the economy to "develop system logics of their own and push citizens into the peripheral role of mere organisational members" (BFN 78). Habermas regards civil society as an effective complement to formal political institutions, and as the ultimate source of the political power that the state utilises. "The institutional concerns common to most democratic theorists – rights, representation, voting and balances of power – are important for Habermas primarily as a means of enabling public spheres."[40] In this respect, his account provides a useful point of contrast to Taylor's more state-centred approach. Taylor thinks that far-reaching legal protections for cultural groups are an important prerequisite for social integration and democratic decision-making. While similar claims have been made by participatory democrats who call for guarantees for fairer structures of representation within formal institutions, for example through a system of reserved quotas for women or minorities in national parliaments, Taylor wants to go further still. He thinks that the state has a responsibility to recognise and positively affirm the particular identities of its members in order for the outcomes of democratic decision-making procedures to be considered legitimate.

In view of the problems that have been seen to attach to the state offering these unilateral guarantees of recognition, a more decentred approach to political participation as a means of developing fair terms for reciprocal recognition seems desirable. In contradistinction to those accounts which aim to broaden participation and deepen social integration by extending pre-existing structures of representation, or status guarantees in the form of rights, Habermas's deliberative account, places a stronger emphasis on collective opinion- and will-

formation within the informal networks of participation associated with civil society. By removing the need to develop pre-political criterion of cultural evaluation as the basis for rights, and by placing the burden of legitimation on the democratic procedure itself, Habermas successfully avoids the central difficulties that were found to attach to Taylor's approach. It is important though that these advantages are not gained at the cost of sidelining the issue of inclusion/exclusion, which, it has been argued, Taylor's recognition approach has usefully clarified.

In order to provide a convincing response to Taylor's formidable challenge, Habermas must demonstrate that his 'deliberative' approach need not be confined to affording only the limited forms of recognition that Taylor attaches to the model of 'equal dignity'. To recap, Taylor associates the Kantian inspired equal dignity model with uniform treatment and thus suggests that it can afford recognition only to human capacities considered universal. That is to say, it can afford recognition only to 'sameness' not to 'difference' and is therefore inimical to pluralism. Habermas argues, contrary to Taylor's analysis, that we need not call into question the individualistic core of the modern understanding of freedom in order to justify cultural rights and far-reaching status guarantees for minorities. Rather, what makes it "possible for different cultural, ethnic, and religious forms of life to coexist and interact on equal terms within *the same* political community", is that each national culture interprets fundamental constitutional principles such as popular sovereignty and human rights from the point of view of its own traditions.[41] Furthermore, this interpretation is not achieved definitively, once and for all, but is subject to continual renegotiation in the light of changing socio-cultural and historical circumstances.[42]

2.1 Individual rights and cultural protections

In an essay which is modelled effectively as a reply to Charles Taylor's *Politics of Recognition,* Habermas suggests that the basic error of Taylor's account lies in the assumption that safeguarding collective identities competes with the right of equal individual liberties[43]. Or, to put it another way, that the 'politics of equal respect' and, the 'politics of difference' are in conflict. Habermas claims that a theory of rights that is sensitive to cultural differences does not, as Taylor suggests, call for "additional principles to correct the individualistic design of a

system of rights".[44] On Habermas's view, collective rights "would necessarily overtax a theory of rights tailored to individual legal persons."[45] He insists that "all rights ultimately stem from the system of rights that free and equal legal subjects mutually accord to one another" (BFN 409). However, the formal structure of law, which protects the integrity of the private legal person at the same time as guaranteeing her rights to public autonomy, gains its specific content as those affected articulate and justify their interests and needs in public debate. For this reason, legal rights are sensitive to the fact that "persons are individualized only by way of socialization."[46]

Individual rights are therefore receptive to the intersubjective formation of individual identities and are not simply an expression of an "atomistic, disembodied, and desocialized conception of the person."[47] Like Taylor, Habermas is critical of the idea that human rights can be decided from the standpoint of individuals considered outside of the intersubjective complexes in which they define their identities. Though the basic system of rights is an attempt to meld the principle of discourse (and hence context-transcendent standards of impartiality) with the legal form, this does not specify the content of legal rights, just as the discourse principle itself does not determine the substantive content of norms. Basic rights, which guarantee both private and public autonomy, must instead be conceived as enabling conditions for the determination of positive law.

The co-originality of private and public autonomy sets up, according to Habermas, a dialectic relationship between legal and factual equality (BFN 409-427). If the legal idea of equal protection is to be meaningful, Habermas argues, it is necessary to establish the ways in which individuals and groups, as a consequence of differences in their life situations, are factually barred from equal opportunities to exercise individual liberties. Habermas insists that these inequalities are best detected, and most fully understood, by those individuals who experience them.[48] This means that the private autonomy of individuals is safeguarded only at the same time as their public autonomy as citizens is guaranteed.[49] Hence, citizens must have opportunities for attaining equal 'presence' within the context of political systems and public life. This may, Habermas intimates, require special measures such as reserved quotas for women and ethnic minorities and preferential hiring policies where these are intended to serve

as a temporary and remedial measures for overcoming historical and structural disadvantage.[50] They must also be afforded opportunities to translate their experience of factual inequality into the highly specialised language that pertains to the legal form.[51] Only in this way will citizens in their capacity as addressees of the law experience *the fair value of their rights*.[52]

On this view, democratic citizenship can realise its integrative potential of creating 'solidarity among strangers' only in as far as it "proves itself as a mechanism that actually realizes the material conditions of a shared form of life."[53] Hence, in the context of multicultural societies the state can and must protect the right of minority cultures to equal coexistence so that the set of human rights must include "rights to cultural membership."[54] On a discursively conceived procedural liberalism, the medium of modern law affords equal respect to individuals, and consequently to those cultures within which they secure their personal identity. Therefore, "in the dialectical course of extending legal and factual equality, legal development can well give rise to far-reaching status guarantees, rights to self-determination, infrastructural benefits, subsidies etc."[55] No additional principle of equal recognition is required, on this view, and the recourse to a "communitarian conception of cultural rights as collective rights" is rendered obsolete.[56] On Habermas's account minority rights must meet the same standards of justification as individual rights. Since cultural demands can only be processed by the constitutional state as legal claims, they are mediated by the categorical demand incorporated into the legal system to effectively safeguard and expand individual autonomy.[57]

This procedural approach to cultural accommodations allows for, Habermas suggests, "almost all of the immunities, protections, subsidies, and policies which Taylor… …demands for the French Minority in Canada."[58] It cannot accommodate demands for cultural survival though, since legal guarantees of this sort would deprive members of the freedom to either appropriate or break with their cultural heritage

Rather,

> "all that a constitutional state can do is *make possible* this hermeneutic achievement of the cultural production of lifeworlds. For a warranty of immunity would necessarily rob the members of the very freedom *to say yes or no* which is needed today to make a cultural heritage one's own and preserve it"[59]

In this respect, Habermas's deliberative politics provides a more qualified endorsement of

cultural rights than does Taylor's ontological liberalism.[60] This more qualified approach enables Habermas either to avoid, or provide more adequate responses to, each of the three major difficulties that we have seen to be associated with Taylor's account of cultural rights in Chapter Four. The first of these was termed 'the problem of indeterminacy', it stems from the deep ambiguity in Taylor's approach as regards what sort of cultural groups should be entitled to which kind of cultural rights. The second problem I discussed was the worry that Taylor's account does not provide adequate safeguards for the protection of individual freedom in the face of potentially dogmatic interpretations of collective identities and goals. The third problem alluded to was the potentially intractable disputes that would likely surround the task of cultural evaluation which Taylor makes an intrinsic requirement of his approach to cultural accommodation.

Habermas's approach avoids the second problem identified with Taylor's approach. As we have seen, it is in consequence of his endorsement of strong collective goals that Taylor's communitarian liberalism becomes vulnerable to the concern that it does not incorporate sufficiently robust guarantees for the protection of individual freedom, against potentially oppressive claims for cultural loyalty. By insisting that the protection of cultural groups is legitimate only insofar as it commands the willing assent of citizens expressed through their own efforts to appropriate and reproduce their distinct cultural heritage, Habermas's account of collective rights can mitigate some of these concerns. This approach also avoids the third difficulty of becoming embroiled in potentially intractable disputes surrounding cultural interpretation and evaluation, since whether a particular cultural group is able to expand the scope of the system of rights to issue in legal protections will not be decided on the basis of judgements made about the concrete content of that culture.

The charge of indeterminacy has been levelled at Habermas's theory, with some justification, since he does not provide a theoretically integrated account that makes links between the modes of cultural protection that he finds, in principle, to be legitimate (e.g. legal immunities that apply to all members of a given constituency, privileges which devolve on the group collectively, or rights to self-administration and self-determination) and specific constituencies (e.g immigrant ethnic groups, asylum seekers, and incorporated national

minorities). Will Kymlicka, who has undoubtedly advanced one of the most impressively systematic accounts of cultural rights, is critical of both Taylor and Habermas on this score.[61] He writes, "It is impossible (for me at least) to tell what their abstract concepts imply for specific debates about the particular claims of cultural groups."[62]

Kymlicka's criticism here presents a major challenge to Taylor's communitarian approach, but loses much of its critical force as a comment on Habermas's procedural alternative. There are two reasons for this. The first is that unlike Taylor, Habermas introduces no new class of rights in his justification of collective rights, and so can appeal to widely accepted and adhered to principles of freedom and equality as the ultimate foundation for collective rights. It is not incumbent upon him, as it is on Taylor to spell out the precise relationship between two sets of rights which have correspondingly different bases of justification. Since Taylor juxtaposes the idea of authenticity with the idea of autonomy in developing his approach to cultural rights, he is surely committed to saying something about the relationship between them, yet aside from a passing reference to a handful of fundamental rights, he does not do this satisfactorily. This, as we have seen, undercuts the capacity of the *Politics of Recognition* to distinguish between legitimate forms of collective self-expression from dogmatic attempts to enforce conformism. On Habermas's approach, collective rights never come into conflict with individual freedom in this way, since they are not rooted in the idea that cultural diversity is in itself an independent and sometimes competing value.

The second reason why the problem of indeterminacy need not be fatal for Habermas's approach rests on his assertion that the constitution must be understood as a project that gains determinate content only within spatio-temporal horizons. The content of rights, and the interpretation of basic norms and principles, can only be decided by those engaged in the ongoing process of constitution-making. It therefore appears consonant with this normative commitment to elaborate a procedural conception of the constitutional state that Habermas makes no attempt to offer a systematic theory of cultural rights. To do so would be to prejudge the exercise of self-sovereignty which is, for Habermas, the only source of legitimation open to secular societies in which traditional authority can no longer be the source of collectively binding representations of identity.

2.2 The constitutional state and political integration

On Habermas's view, basic rights are enabling conditions, which, in conjunction with a well-functioning public sphere, provide for an expansion of the legal and material substance of positive rights and enable social integration through increasingly exhaustive schemas of citizenship. Habermas insists that the particular form that a given legal system assumes will be dependent upon the cultural and historical context in which it develops.[63] The idea that the legal order of a community is 'ethically impregnated' is developed in Habermas's more recent work in which he differentiates more clearly between democratic principles and moral norms, and allows that ethical and pragmatic discourses will be part of a process of democratic will-formation. Pragmatic discourses become relevant in law-making which requires a fair balancing of non-universalizable interests.[64] Nevertheless, generalizable interests retain priority over individual interests on Habermas's model, since the outcomes resulting from bargaining and compromise will be rationally acceptable only provided they arise from procedures that have been discursively justified (BFN 460).

Along with pragmatic discourses, ethical discourses, which are concerned with 'hermeneutic self-clarification' about the nature of the good for me, or for us, will also inevitably play a role in the formulation of positive law. Habermas maintains that, within the context of the overall legal order, there is nothing which prevents citizens from asserting a conception of the good "which they either fundamentally share or on which they have reached a consensus through political discourse."[65] His theory is therefore sensitive to the pursuit of mutually agreed collective goals that are specific to the political unit and are therefore not subject to the universalizability constraint. The democratic procedure is intended to produce outcomes that are 'acceptable to all citizens for the same good reasons', but the 'good reasons' themselves are likely to coincide with a 'customary political ethos' rather than with moral reasons that all persons both within and beyond the boundaries of the state could share.[66] This allows for the idea that the constitutional state is 'ethically patterned'.[67]

But the admissibility of ethical discourses to the process of political opinion- and will – formation notwithstanding, Habermas insists that the process of constitution-making, in being ultimately oriented to interpreting and implementing rights, cannot be reduced to an ethico-

political discourse at large.[68] This is because in the context of plural societies, in which citizens are divided over conceptions of the good, interpreting the constitutional project as a process of ethical self-clarification could not, Habermas thinks, provide an adequate basis for social integration. The democratic process must be able to provide the conditions for peaceful co-existence between "different identity-securing traditions".[69]

At the same time however, Habermas intuits that a viable account of citizenship must also meet the requirement of a deeper source of social integration than is provided for by the mere existence of democratic procedures if citizens within a determinate association are to understand collectively binding decisions as having normative force. As we have seen, this is a point consistently obscured by the dominant forms of procedural liberalism.[70] One of the strengths of Charles Taylor's reflections on democracy, and of republican inspired critiques of liberalism more generally, has been the strong emphasis they place upon the need for a strong sense of cohesion and common identification in self-governing societies. Habermas acknowledges this, but charges Taylor with perpetuating a longstanding tradition in political thought that conflates republicanism and nationalism. Quoting from an article by Taylor in which he states: "patriotism is a common identification with a historical community founded on certain values" Habermas suggests that this "appears to contradict [the] proposition that there is only a contingent and not a conceptual connection between republicanism and nationalism".[71] Habermas insists that the ethnic understanding of the nation, which finds the source of patriotic identification in citizens' sense of sharing the same language, or ethnic or cultural origins, cannot provide a stable or viable basis for political integration in modern pluralistic societies.

This raises two questions that are worthy of attention in the present context. Firstly, does Habermas offer a fair assessment of Taylor's position in charging him with this conflation between republicanism and nationalism? And secondly, what does Habermas propose as an alternative to the ethnic nation as a source of integration and focus of identification among citizens? In the remainder of this section, I will consider the latter issue through an analysis of Habermas's conception of constitutional patriotism. I will delay consideration of the former point, about the accuracy of his portrayal of Taylor's approach, for the concluding section

(3.11).

Habermas finds an alternative focus for political identification in the form of "an abstract, legally constructed solidarity that reproduces itself through political participation."[72] In order to express this basic idea, Habermas has appropriated and popularised the term constitutional patriotism (*Verfassungspatriotismus*) coined by Dolf Sternberger in 1979.[73] In its initial formulation the idea of constitutional patriotism was tailored specifically for a divided Germany and the complex relationship with nationality and statehood that it embodied.[74] It signalled an attachment to the democratic achievements of the Federal Republic, while not excluding national solidarity with the German Democratic Republic.[75] However, Habermas attempts to dissociate the idea more completely from nationalism in suggesting that unification was best understood as the recovery of rights and democratic procedures rather than as the re-unification of a nation.[76] In fact, Habermas suggests that the historical discontinuities and ambivalences that feature so acutely in German national consciousness as a consequence of National Socialism, have necessitated a more self-critical appropriation of national traditions prompted by the evolution of a more abstract form of patriotism based around universalist principles of state and citizenship.[77] Unable to unite around a conventional national consciousness, Germans had "'learnt something special' from their 'national catastrophe.'"[78]

Despite the inception of the idea in the specific context of Germany, Habermas clearly regards the concept of constitutional patriotism as having a wider appeal. The capacity for a more reflective form of social integration based around constitutional principles has an important application, Habermas thinks, in the context of multicultural societies for which supra-national ties have also taken on a greater salience. Constitutional patriotism is, he suggests, compatible with a political culture which can be the 'common denominator' between the different forms of life that co-exist within a multicultural society. It might also, he thinks, form the basis for supra-national forms of belonging to a shared political culture underwriting a 'Federal Republic of European States.'[79]

However, insofar as the idea of constitutional patriotism really does have these wider applications, it appears incumbent upon Habermas to explain how the requisite political culture, based not on the pre-political ties associated with the 'ascriptive' identity-markers of the

'ethnos', but rather on loyalties to the abstract political principles of the 'demos', might develop in liberal democratic societies that do not feel this profound sense of rupture with national traditions. In response, he appeals to an idea of progress, which, as we saw in the foregoing chapter, is intimately connected with his interpretation of modernity in terms of 'gains in rationalization'. In the particular case of constitutional patriotism, the processes by which individuals come to prioritise rights and democratic practices as the primary focus of loyalty and identification appears to go hand-in-hand with the dialectical development of legal and factual equality which is facilitated by the constitutional state's safeguarding both private and public autonomy.

Habermas suggests that the 'materialization' of law through the dialectical relationship between legal and factual equality will lead to citizens themselves becoming "more keenly aware of the *priority* of the issue of the implementation of basic rights – of the priority that the real nation of citizens must maintain over the imagined ethnic-cultural nation."[80] Hence pluralistic societies that succeed in interpreting constitutional principles in ways which allow individuals with different needs and value-orientations to experience the 'fair value of their rights', will not only fulfil the demands of democratic legitimacy, but will also be "be able to provide citizens with a sense of solidarity.[81] This solidarity seems ultimately to be rooted in the recognition among citizens that these increasingly exhaustive schemas of rights represent a trend in the direction of emancipation and progress.

3. DELIBERATIVE POLITICS AND CONSTITUTIONALISM

Many of the most incisive criticisms of Habermas's theory of deliberative democracy, including those that identify it as being insensitive to 'difference', cluster loosely around a single theme. The idea is, that Habermas's proceduralism shores up some of the problems characteristic of political life in modern pluralistic societies only by taking a step back from the contexts within which political action becomes imperative.

Firstly, (3.1) I will consider a weak version of this criticism which charges that Habermas's abstract account of deliberative democracy fails to frame the conditions that could support its claim to enact a legitimate political process in the context of actual polities. I will

suggest that Habermas's idea of the constitution as an historical project provides an adequate response to this challenge. In understanding the constitutional project as an ongoing process to actualise the potentials for equality and freedom framed by basic rights, Habermas confronts directly both aspects of boundary-drawing highlighted in Chapter One. In defining terms of political membership so as to dissociate citizenship from both an ethnocultural concept of the nation, and a unified political identity that reflects the particularistic identities of members, Habermas offers a more promising basis for democratic citizenship and social integration than does Taylor.

Secondly, (3.2) I will consider a stronger criticism of Habermas's procedural formulation of democratic legitimacy. Here the charge is not that Habermas has formulated his model of deliberative politics in a way that is insensitive to institutional and practical considerations, rather the challenge, more fundamentally, is that the Habermasian procedural vision of deliberative politics eclipses the true nature of the political in a much deeper sense. It is suggested that while the political is characterised by conflicts and deep ambiguities which any adequate account of political action must negotiate, Habermas flees to a more abstract realm of theory in which the forms of interchange among plural individuals more closely resemble an academic seminar than they do recognisable contexts of political action in diverse societies. I will suggest that Habermas's theory has fewer resources for meeting this challenge.

3.1 The constitution as a project: Habermas's response to the problems of 'jurisdiction' and 'jurisgenisis'

I have suggested that the charge of 'indeterminacy', as formulated by Kymlicka, need not be fatal for Habermas's attempt to develop an account of deliberative constitutionalism for diverse societies. Habermas's depiction of the constitution as a 'process' releases him from the twin requirements of developing a more systematic account of cultural rights, and evaluating the normative basis of the claims advanced by disparate cultural groups. We have seen that, on Habermas's view, the constitutional state must be committed to granting the private and civic autonomy of every citizen equally. For this reason, Habermas sees his approach as marking a radical departure from liberalism's assumption that there should be "an a priori and clear-cut distinction between the private and public identity of citizens."[82] He acknowledges that, the

"boundaries between private and public spheres are historically in flux."[83] Hence no theoretical approach concerned to identify terms for the legitimate exercise of political power should attempt to offer detailed and highly specific account of the rights that sustain these boundaries.

In rejecting the idea that the terms of the boundaries between private and public can be decided unilaterally in advance of citizens' making use of their democratic rights in the form of civic autonomy, Habermas avoids many of the problems associated with the liberal accounts of citizenship considered in Chapter One. Also, since ultimately the measure of legitimacy of any particular positive law is the testing of validity claims in actual discourses, cultural evaluation becomes a matter for democratic politics *in situ* and not part of the justificatory enterprise. Making democratic legitimacy fundamental for politics means that we do not need to rely upon any potentially contestable anthropological view of culture as part of the justificatory enterprise of democratic theory.

However, it might be suggested that Habermas's procedural model merely postpones the problem of indeterminacy only for it to resurface at the level of the second boundary-drawing problem identified in Chapter One. Here the problem stated baldly is that of identifying the 'people'. In order to make sense of Habermas's response to this problem it is useful to differentiate it further into two distinct aspects. Firstly, 'the people' must be identified in terms of their co-existence within a given territorial unit within which they are subjects of the coercive authority of the state. The political unit must establish boundaries as a prerequisite for the democratic exercise of power, and yet these boundaries cannot be established democratically.[84] I will refer to this aspect of the second boundary-drawing problem as 'the problem of jurisdiction'. Secondly 'the people' must be understood collectively as the ultimate source of political power. In taking this point seriously, Habermas attempts to make democratic procedures, as opposed to liberal thought experiments, bear the burden of legitimation for positive law. However the grounds of legitimation, which Habermas interprets in discourse-theoretic terms, are themselves in need of legitimation.[85] Using Frank Michelman's terminology, I identify this as the problem of 'jurisgenesis'.[86] In considering Habermas's response to these problems, the difficulties with the view that the republican idea of self-government might be interpreted in purely procedural terms begins to surface. Once we begin to understand the

principle of democracy within a recognisably human context, bounded by space and by time, the sharp contrast between the moral and the ethical becomes more difficult to sustain.

3.11 The problem of jurisdiction.

Clearly, the boundaries of those territorial units that make up the system of sovereign states recognised by international law, are determined by factors that are extrinsic to the basic system of rights and are not decided by a discourse-theoretic account of legitimacy. Yet the political authority within a given jurisdiction claims priority over any autonomous social or political organisations within these borders. The question that inevitably arises then, is this: how can the arbitrary and historically contingent demarcations of jurisdiction come to claim to legitimacy? Habermas claims that the concept of the nation-state has been used as a theoretical device to foreclose the tension between the universalism of an egalitarian legal community, presupposed by the idea of democratic self-government, and the particularism of a political community that provides the focus for loyalty and solidarity.[87]

In Chapter One it was suggested that liberals have, for the most part, presupposed some conception of the nation state as a background for their respective conceptions of citizenship, though the normative significance of this appeal to the nation remains ambiguous and under-theorised. As a consequence of this theoretical blind spot, liberal nationalist, conservative and communitarian theorists have self-consciously attempted to theorise nationalism as an explicit commitment of normative political theory.[88] Will Kymlicka has sought to develop a far-reaching liberal defence of minority rights using the idea that minorities must be offered protections against the inevitable and legitimate process of 'nation-building' undertaken within constitutional states through the state's promotion of a single and specific 'societal culture'. For the most part, individuals will be expected to integrate into this encompassing 'societal culture'. That Kymlicka intends the category of 'societal culture' to be considered coextensive with the idea of a historical nation is clear when we consider that he defines as 'multinational' a state in which government policy encourages the sustaining of two or more 'societal cultures'.[89]

In light of these considerations it seems that Habermas's claim that the most widely

canvassed response to the 'problem of boundaries' has been the attempt to meld the republican ideal of self-government with some conception of nationalism appears to carry some force. However, Habermas goes further, suggesting that this co-joining has been problematic to the extent that the nation-state has too often been interpreted as a 'subject writ large' and identified with a naturalistic conception of the people.[90] He suggests that the republican achievement, which was to substitute "relations of solidarity between citizens for the disintegrating corporate ties of early modern society" is endangered when "the nation of citizens is traced back to the prepolitical fact of a quasi-natural people, this is, to something independent of and prior to the political opinion- and will- formation of the citizens themselves."[91] Habermas claims that republicanism has historically been linked with a very specific kind of nationalism, which we might call ethnonationalism.[92] The supposition is that citizens share common cultural or ethnic origins, and that this confers legitimacy to territorial boundaries.

This more strident claim, that republican ideals of self-government have typically been linked, not just with nationalism, but with ethno-nationalism, seems difficult to defend. Kymlicka for example acknowledges that 'societal cultures', while promoting a shared language and culture through a wide range of societal institutions such as government, economy, media, schools and law, are necessarily pluralistic in terms of the ethnicities and lifestyles they embrace.[93] However, Habermas is on stronger ground with his claim that the appeal to the nation is often pre-political in that it locates unity and social integration in a source prior to political opinion- and will- formation. This may not necessarily be interpreted in ethnic terms. Kymlicka, for example, thinks that even non-ethnic understandings of nationalism must combine civic commitments to freedom and equality, with a "backward-looking" emphasis on the historical specifity and particularity of a given nation. Fostering a sense of allegiance to the nation will involve then, "promoting a sense of history [as] a way of ensuring that people identify, not just with abstract principles, but with *this* political community, with its particular boundaries, institutions, procedures and so on."[94]

However, as was noted previously (2.2), Habermas levels at Taylor specifically the 'stronger' version of this criticism. Taylor, he thinks, fails to recognise that there is no

conceptual connection between republicanism and (ethno)-nationalism and that the association is rather, a historically contingent one.[95] This criticism cannot be levelled earnestly at Taylor's latest work either, since he specifically refers to both 'republican' and 'nationalist' variants of popular sovereignty recognising their distinctiveness and the problematic tendency to conflate them.[96] He concurs with Habermas in suggesting that for contemporary diverse societies, it is the republican element of nationalism that it is crucial to recover as a corollary of collective deliberation and decision-making in an inclusive public sphere. Taylor and Habermas then appear to agree that a civic conception of nationalism is more appropriate than an ethnic one as a source of social integration for modern diverse societies. Both want to distance themselves from 'blood-and-soil-nationalism', which appeals to ethnicity or race as an indicator of a common descent group and makes this the basis of 'a people's' collective claim to sovereignty within a specific territory or homeland.[97]

The real point at issue between them is how the civic conception of nationalism, which each identifies with a republican ideal is to be understood. Both acknowledge that civic nationalism can engender the mutual trust that is required for the effective operation of constitutional procedures, but each interprets the conditions needed to sustain this trust differently. Taylor appears to interpret civic nationalism as a *strong identification,* meaning that individuals identify directly with the entire set of norms and practices of their community. Habermas interprets civic nationalism as a *weak identification* meaning that individuals identify with a set of fundamental principles and basic norms that define the society's ethical character and constrain the possible content of less fundamental norms.[98]

On Taylor's account, the basis for this strong identification is an ethical theory which can provide a normative basis for the mutual co-operation, shared sacrifice, and willingness to submit to the outcomes of agreed forms of majority decision procedures that are required for social cohesion. On Taylor's view this requires that citizens must be able to actively and immediately relate to a common political identity as 'theirs'. They must feel "a sense that the political institutions in which they live are an expression of themselves."[99] They must be able to 'find themselves reflected in' the shared political identity. This vocabulary makes Taylor's account appear strikingly similar to romanticised republican ideas such as Rousseau's.

At the beginning of the social contract Rousseau suggests that the act by which a people constitutes itself as 'a people', must be prior to the act by which it submits to those procedures deemed legitimate for the exercise of political rule, such as majority decision-making procedures, which if they are not to be reduced to simply a form of majority rule must themselves be established by some 'prior convention'. Only then would there be a moral obligation upon the minority to submit to the will of the majority. Like Rousseau, Taylor thinks that it must be possible for citizens to identify themselves as a collective agent in order to abide by the rules and outcomes of democratic decision-making. While overtly eschewing ethno-cultural nationalism, Taylor does not wish to extricate himself from the romantic vision of a unified collective group with shared goals, which, he thinks, must underpin not only legitimate forms of cultural and linguistic nationalism, but also the republican ideal of the constitutional state. On Taylor's approach, the loyalties and affective ties that are supposed to provide the basis for this non-ethnic or civic conception of nationalism are almost entirely a function of the capacity of the state to foster inclusion through the construction of a collective political identity that citizens with diverse ethnic, national and cultural heritages can strongly identify with.

It is this propensity to romanticize "the people" as a collective agent, that is, as a subject writ large, that Habermas is most critical of.[100] He does not regard a unified pre-political identity as being a substrate for the moral bindingness of majority decisions. He appeals to the presumption of rationality that the democratic process confers upon them in virtue of its occupying an impartial standpoint that is equally in the interests of all. The democratic decision procedure cannot guarantee right outcomes and so cannot demand that the outvoted minority accept the outcomes as rational. This is why law must enforce compliance with its commands while leaving the issue of motivations open. No concessions can be made, though, to those who do not accept the legitimacy of democratic procedures themselves, as these have been constructed so as to "*justify the presumption* of a rational outcome" and are therefore worthy of respect.[101] For Habermas, it is these fundamental principles that form the basis of *weak integration.*

It is crucial to notice here that it is not simply the rational basis of these procedures that Habermas considers important for fostering the allegiance of citizens to them, it is also an

implicit 'faith' that they will ultimately lead to rational outcomes. Considered in abstract terms these procedures will not in themselves be sufficient to foster the kind of solidarity among co-nationals that is required by modern welfare-state democracies, nor to resolve the problem of boundaries. In fact, considered in isolation, they tends toward the affirmation of cosmopolitan ideals of world citizenship on the grounds that no more limited kind is morally defensible.[102] But as Habermas notes, "the establishment of a legal code calls for rights that regulate membership of a *determinate* association of citizens, thus allowing one to differentiate between members and nonmembers, citizens and aliens" (BFN 124).

In keeping with his emphasis on the co-originality of private and public autonomy Habermas points to the spatio-temporal horizons within which democratic procedures are realised in the form of a legal code, as being equally fundamental to his account of legitimacy and social integration. The positivisation of law within a particular political community then, must serve as an important and independent grounds for citizens' submission to democratic processes within a particular state. For the constitution, which links citizens with a particular territorially defined historical community, is not a permanent and fixed settlement, but an open-ended and continuous project always in the process of becoming. It is this which sustains the motivation among citizens to abide by those decisions arrived at democratically by their compatriots. He writes,

> "Democratic majority decisions are only a caesura in a process of argumentation that has been (temporarily) interrupted under the pressure to decide... ... ... the minority can live with the majority opinion as binding on their conduct insofar as the democratic process gives them the possibility of continuing or recommencing the interrupted discussion and shifting the majority by offering (putatively) better arguments."[103]

It is the ongoing and actual nature of processes of discursive will formation, as much as the procedures that frame these, which make possible the emergence of rational outcomes, and this possibility is itself an important element of political legitimacy for Habermas. Thomas McCarthy has pointed to the extent to which Habermas appropriates the ideas of Julius Fröbel in interpreting majority rule as "the "conditional agreement" of a minority which, while continuing to regard its *opinion* as correct, renounces its *will* in favour of the majority, until such time as it can convince the majority that its views are correct."[104] Citizens commit to democratic

procedures not simply because philosophers have demonstrated that they realize principles of justice or impartiality, but because they "build up legitimacy" by gaining a "reputation for granting impartiality" insofar as they allow equal civil entitlements and respond to the specific social and cultural needs of a particular community.[105] He attempts to substitute 'backward-looking' conceptions of nationality such as Kymlicka's, or those that look to a basis for social integration prior to political decision making, such as Taylor's, with a 'future-oriented' conception, wherein political allegiance is associated with a utopian ideal of emancipation. This same idea, he thinks, can also offer the most adequate response to the problem of 'jurisgenesis'. However, when the assumptions that citizens must make in order to appropriate the constitution as a 'future-orientated' project in permanent process of becoming is spelled out, it is not clear precisely what is left of the distinctions that Habermas wants to sustain between 'procedure' and 'substance', 'moral' and 'ethical', and 'self-determination' and 'self-realisation'.

3.12 The problem of jurisgenesis

Since discourse ethics is essentially "dialogical", meaning that "individuals can develop principles of judgement only be conversing with those affected",[106] it seems better positioned to offer an account of democratic procedure than the "monological" versions of Kantian ethics, in which "one makes moral choices by having a hypothetical conversation with oneself about what would universalize maxims of conduct."[107] However, since discourse theory itself, which defines the limits of the constitution-making enterprise, cannot bring into being the actual process of constitution-making in a territorial unit, Habermas prefers to interpret the practice of constitution-making as an ongoing interpretation of constitutional principles from within the thick context of the history of a nation.[108] He acknowledges though, that the inception of this process raises problematic questions for normative political theory. The constitution must have clearly marked beginning in time.[109] However, as Hannah Arendt notices, this introduces a *petitio principii* "which attends every new beginning" and is inherent in the political task of foundation.[110] The question arises as to what authorises the framers of the constitution. This founding act can never itself be constitutional, since it is prior to the constitution itself.[111]

Habermas is aware of this problem, and of the difficulties that attend to the liberal

tendency to interpret the act of founding as a thought experiment carried out by a subject in "monological" terms. These difficulties attend even to contemporary 'hypothetical' versions such as that presented in Rawls' *Theory of Justice.* Habermas writes,

> "From the perspective of the theory of justice, the act of founding the democratic constitution cannot be repeated under the institutional conditions of an already constituted just society, and the process of realising the system of basic rights cannot be assured an ongoing basis. It is not possible for the citizens to experience this process as open and incomplete, as the shifting historical circumstances nonetheless demand. They cannot reignite the radical democratic embers of the original position on the civic life of society."[112]

In identifying these difficulties, Habermas draws upon the longstanding concern among republicans and participatory democrats about the potential for constitutional rights to secure potentially iniquitous relations of domination and subordination prior to democratic will formation. On the basis of this critique he hopes to place his model of the constitutional state on a firmer footing than models of liberalism such as Rawls' *Theory of Justice,* by making democratic procedures, rather than liberal thought experiments, the basis of legitimation. In developing the 'principle of democracy' as distinct from the 'principle of discourse', Habermas separates out questions of legitimacy from issues of justice and validity. His procedural approach differs from Rawls', in that "no constitution or law can be legitimate (as opposed to "valid," i.e., just) unless actually accepted by those governed by them in real deliberative procedures."[113]

Habermas is on strong ground in claiming that democratic practice has no serious competitor as a source of legitimation within modern constitutional states. However, even with this firm commitment to deliberation within the terms laid down by democratic procedures in place, the problem of foundations re-emerges at a deeper level, as identified by Frank Michelman.[114] Michelman notes that in contemporary society 'democratic sovereignty is the only sovereignty we accredit.'[115] Hence we must appeal to appropriately democratic processes as the only reasonable justification for political authority in secular societies. However, whether democratic procedures are appropriately functioning, or even appropriately constituted can "at any time become a matter of contentious but reasonable disagreement, according to the liberal premise of reasonable interpretive pluralism."[116] Even if we manage to agree to terms about

what an appropriately functioning democratic procedure is, we can continue to question what validates *this* deliberative process and agreement, and so on *as infinitum.* It is for this reason that the democratic process as a basis for legal self-constitution appears caught in a circular chain of reasoning and the *petitio principii* difficulty emerges once again.

Now, one way of responding to this difficulty would be to appeal to a collective supraindividual entity "the people" as being the ultimate source of political power having legal title to rule. This was, Arendt notes, how Sieyès broke out of the vicious circle and the *petitio principii*.[117] He posited that "Both power and law were anchored in the nation, or rather in the will of the nation, which itself remained outside and above all governments and all laws."[118] The nation here provides the grounds for unanimity which Rousseau suggests must exist on 'one occasion at least' in order to establish as legitimate democratic procedures such as majority rule.[119] Arendt is critical of this attempt to locate the act of political foundation in a sovereign will rather than in the fragile and inherently unpredictable enterprise of constitution-making which relies ultimately on 'the force of mutual promise or contract'.[120] Where the founding act is reduced to a unanimous act of will, human plurality, which is the defining feature of the political is obliterated.[121]

Habermas too seeks to avoid this problematic appeal to a supra-individual entity such as the nation, but also finds Arendt's reliance upon the faculty of promise-keeping too unstable a basis for constitutionalism. In fact, Habermas eschews any appeal to external conditions, including 'the transparent objectivity of ultimate moral insights' that might bring the circle of reasoning to a halt through an appeal to ultimate foundations. Instead he writes,

> "I propose that we understand the regress itself as the understandable expression of the future-oriented character, or openness, of the democratic constitution: in my view, a constitution that is democratic—not just in its content but also according to its source of legitimation—is a tradition- building project with a clearly marked beginning in time. All the later generations have the task of actualising the still-untapped normative substance of the system of rights laid down in the original document of the constitution."[122]

The constitution, he continues,

> "can be understood in the long run as a self-correcting learning process."[123] .

How far Habermas has gone in extricating his theory from the 'fictive ideal of

unanimity', which in Arendt's view, not only accounts for the allure of the more destructive forms of nationalism, but is in itself an inherently anti-political ideal is unclear. Habermas continues to appeal to the idea of unanimity in two ways. Firstly, citizens must be unanimous in their interpretation of the enterprise that they are engaged in. Habermas acknowledges that "the interpretation of constitutional history as a learning process is predicated on the non-trivial assumption that later generations will start with the same standards as did the founders."[124] Secondly, Habermas appears to suggest that citizens must unanimously assent to an understanding of the constitution as an inherently progressive and emancipatory force. Hence 'contingent interruptions' and 'historical regressions' notwithstanding, constitutional reforms will ultimately win approval. Habermas asserts that what is evident from an analysis of the actual course of the historical development of constitutions is that, "Once interpretative battles have subsided, all parties recognize that the reforms are achievements, although they were at first sharply contested."[125] As Bonnie Honig has noted, this is problematic since "when Habermas characterizes his hoped-for future in progressive terms, he turns the future into a ground."[126] In order to terminate the regress of democratic proceduralism, Habermas must make an explicit appeal to those capacities of citizens that will utilise procedures for emancipatory purposes, however, he simultaneously rejects the idea that this can be a part of defining the core of democratic legitimacy.

3.2 Constitutional patriotism and post-conventional morality

On Habermas's view, basic human rights that define the status of a legal person prior to the positivisation of law translate into legal form the rights and duties that individuals must reciprocally accord one another as a condition of rational discourse. As we have seen, these rights are understood as enabling conditions which make possible the exercise of political autonomy. They allow individuals to view themselves as both authors and addressees of law. They include equal individual liberties, equal membership, equal legal protection and equal opportunities to participate. These status guarantees are minimal conditions that allow a constitutional state to realise its basic commitment to freedom and equality. They have been tied conceptually and historically to liberal principles of toleration and non-discrimination, which aim to guard against allowing any one group political privilege over others.

However, because this toleration is first granted unilaterally by authorities it leads to a paradox, which Habermas describes as follows,

> "each act of toleration must circumscribe the range of behaviour everybody must accept, thereby drawing a line for what can*not* be tolerated. There can be no inclusion without exclusion. As long as this line is drawn in an authoritarian manner, i.e., unilaterally, the stigma of arbitrary exclusion remains inscribed in toleration."[127]

The way around this paradox, according to Habermas, is to find a *universally convincing* delineation between what is to be tolerated and what is not. This represents the standpoint of rational opinion- and will- formation which provides, not only the basis for democratic procedures, but also sets the standard of public reason. It "constrains *all* affected to adopt the perspectives of *all others* in the balancing of interests."[128] Citizens and their representatives are required to "turn away from the *ethical* question of which regulation is respectively "best for us" from "our" point of view. They must instead, take the *moral* point of view and examine which regulation is "equally good for all" in view of the prior claim to an equal right to coexist."[129]

This conceptualisation of public reason is, Habermas claims, more modest than Rawls' since it "focuses exclusively on the procedural aspects of the public use of reason and derives the system of rights from its institutionalisation. It can leave more questions open because it entrusts more to the *process* of rational opinion and will formation."[130] It provides a basis for judging disputed questions impartially, but cannot go beyond this (BFN 114). For this reason, attempts to determine the content of rights in advance of democratic discourse by appealing either to principles of justice, or, to some notion of cultural integrity will be problematic. Habermas claims that there is no privileged standpoint outside of the *process* of the democratic opinion- and will- formation that could settle interpretative disputes even on core principles such as equal consideration and equal treatment, once and for all.

However, when the dimensions of a determinate bounded group of citizens and historical time are inserted into this picture, as indeed they must be as a condition of terminating the regress of justification, things begin to look more complicated. We find that two far from trivial assumptions must be made about the citizens who engage in the ongoing process of constitution-making, both of which undercut the idea of a pure procedural understanding of democratic legitimacy.

3.21 Constitutional patriotism and proceduralism

The idea that private and public autonomy are co-original goes some way toward resolving the paradoxical relationship between constitutionalism and democracy. Indeed, for this reason Alessandro Ferrara has described it as "one of the most innovative philosophical ideas of the 1990's".[131] The core achievement of liberal constitutional politics stems from its commitment to uphold the equal dignity of all citizens through protecting human rights from arbitrary political power, and the contingent will of democratic majorities. However, republican and participatory democrats have been as suspicious of the potential for constitutional rights to secure potentially iniquitous relations of domination and subordination prior to the constitutional settlement, by removing certain issues from the domain of popular control, as liberals have been wary about the unrestricted exercise of popular sovereignty. Habermas's procedural reading of popular sovereignty, in which popular control is restricted only by abstract categories of rights which are a condition of its proper exercise, and of the legal form as such, goes some way to responding to these difficulties at a conceptual level. Once the dimension of time is inserted into this conceptual framework though, it seems that only the 'founders' of any particular constitutional system are restricted solely by these abstract categories of rights, whereas our exercise of popular sovereignty, in the here and now, is constrained also by rights already positivised in the constituton, rights that we did not reciprocally grant one another.[132]

Habermas claims that,

> "(T)he allegedly paradoxical relation between democracy and the rule of law resolves itself in the dimension of historical time, provided one conceives of the constitution as a project that makes the founding act into an ongoing process of constitution making that continues across generations."[133]

Here, Habermas suggests that the constitution should be conceived as an intergenerational covenant to actualise the content of rights in a way that is consistent with the basic standards laid down in the framework of the constitution, initially by the founders. However, once the constitution is understood in these terms, as an ongoing project that has continuity across generations, it is clear that something over and above the principle of democracy must be brought to the enterprise of justification.

The principle of democracy is derived from a reconstructive analysis of what we must already assume in participating in modern democratic and constitutional practices as such. It spells out the universal principles behind democratic procedure and the system of rights. However as participants within a constitutional project, and as agents who adopt a performative as opposed to a strategic attitude to law, we operate within the thick context of an ethically patterned and historically defined nation state. To describe an individual's relationship to this determinate constitutional project, Habermas appeals to the future-oriented goals of constitutional actors, apparently to downplay the "backward-looking" emphasis on the cultural continuity, historical specifity or territorial integrity of the nation. However, it is clear that some idea of constitutional continuity is required in order for citizens to identify themselves with *this* constitutional project as opposed to the multifarious other modern constitutional projects which the principle of democracy underpins.

3.22 Recognition and post-conventional morality.

It is clear then, that Habermas must tie constitutional patriotism to a specific context whose unity cannot be understood wholly as a future-oriented projection of possibilities. This raises difficulties too for Habermas's account of the sense in which recognition is relevant for democratic practice. As the above reflections on constitutional patriotism make clear, citizens must recognise one another not simply as bearers of abstract rights with communicative competencies, but also as equals in the shared project of defining constitutional identity. It is not clear then that Habermas's appeal to 'postconventional' morality as a basis for solidarity is sufficiently strong to compensate for the fragmentation and pluralisation that accompanies the disintegration of shared value horizons, nor that it can bear the entire weight of sustaining commitment to democratic processes.

For Habermas, as for Taylor, problems of recognition arise where the collapse of hierarchies and corresponding forms of social order that rendered social integration unproblematic, have made relations of recognition more uncertain. This brings to the fore the "constitutional insecurity and chronic fragility of personal identity"[134] – a fragility that arises from the fact that human beings who are individuated through social relations experience that

identity as a site of 'vulnerability.' Hence modernity, at the same time as making recognition more problematic also makes the need for recognition more intense. For Habermas, the individual's sense of herself as autonomous and her dependence upon interpersonal relationships grow together in the modern world. Thus Habermas writes, "the more the subject becomes individuated, the more he becomes entangled in a densely woven fabric of mutual recognition, that is, of reciprocal exposedness and vulnerability."[135]

Unlike Taylor however, Habermas insists that politics cannot provide for existential security nor can a schema of recognition be devised which will compensate for the fact that identity is a site of vulnerability. Democracy cannot be a vehicle for restoring the lost unity of communal forms of life within the context of pluralistic societies divided over conceptions of the good. Instead democracy presupposes a more abstract kind of integration. The main thrust of Habermas's theory is to provide an account of social integration for life contexts that are no longer legitimated by tradition. He turns to post-conventional morality as the only viable means for responding to the fragility and vulnerability of intersubjectively constituted identities, stating "in anthropological terms, morality is the safety device compensating for the vulnerability built into the sociocultural form of life."[136]

On Habermas's view, the same processes that make struggles for recognition inevitable within modern society also open up possibilities for their co-ordination, albeit at a higher level of abstraction. Habermas suggests that to the extent that cultural traditions and patterns of socialisation associated with religious and metaphysical worldviews have come under the pressure of critical reflection, universalist value orientations have gained ascendancy.[137] Individuals and groups that no longer agree on basic moral norms are thereby thrown back upon the structural aspects of discourse that all share in virtue of being socialised into a communicative form of life. This means that participants have an intuitive understanding of how one engages in discourse.[138] They must take up a reflective attitude to their wants and needs and value orientations, in virtue of the fact that they must aim at presenting reasons for their claims in terms that are publicly justifiable.[139] For post-conventional morality to provide the socially integrative basis for citizenship, it must be assured of the existence of post-conventional selves.[140]

The limitations on the forms of cultural recognition which Habermas thinks possible within a constitutional state, become readily explicable given the more abstract exchanges of recognition that must stabilize post-traditional forms of collective life. As we have seen, on Habermas's view, individual rights to cultural membership cannot extend to demands for cultural survival, since status guarantees of this kind would deprive members of the freedom to either appropriate or break with their cultural heritage[141]. Similarly, Habermas's perspective cannot accommodate fundamentalist views because appeals to, for example, the revealed truths of Christianity are unlikely to convince others. Habermas states, "they leave no space for reflection on their relationship to those other world views with which they share *the same* universe of discourse and against whose competing validity claims they can assert themselves only with reasons."[142] In other words, they undermine the very basis of 'postconventional identities', which must be reflexive. Since postconventional morality structures basic rights and duties and the democratic procedures through which the constitutional project is realised within spatio-temporal horizons, individuals and groups cannot claim inclusion on terms that are inimical to it. They cannot, Habermas thinks, enjoy cultural rights 'free of charge', or "benefit from a morality of equal inclusion without themselves making this morality their own."[143]

Ultimately, the viability of the proceduralized conception of popular sovereignty that Habermas places at the centre of his democratic theory depends upon processes of rationalization, linked with post-conventional moralities, having taken root in political culture. This is particularly the case since the administratively employed power of the state is dependent upon the communicatively engendered power of citizens. He insists, "rational political will-formation cannot occur unless a rationalized lifeworld meets it halfway" (BFN 487). He argues that as co-citizens of a political community, individuals must be able to make the required 'role differentiation' between their membership of substantive ethical groupings and their membership of the constitutional state.[144]

It is this idea of role differentiation that raises the most serious difficulties for Habermas's account of democracy. However, in order not to miss our target here, it is important to say what it is not. Unlike some liberal approaches, Habermas does not distinguish the public identity of citizens from their private identity as individuals in order to impose upon

the former "gag rules" which keep certain controversial issues off the agenda of public debate.[145] On Habermas's view, boundaries between private and public cannot be fixed in this way, but must be fluid and open to the outcomes of deliberation. Even core elements of the system of rights, such as what counts as equal treatment and equal consideration are open to dispute on this view. Habermas therefore regards the way in which a constitutional state responds to civil disobedience on the part of those who continue to protest decisions arrived at legitimately, as something of a litmus test for a well-functioning democratic state. Allowing civil disobedience is understood by Habermas to be indicative of a constitutional state's preparedness to accept that those who contest the normative contents that have become embodied in the constitution so far, may in the long run prove to be, not enemies of the constitution, but its true patriotic champions.[146] However, while the impersonal mechanisms of the constitutional state may well be able to sustain the juxtaposition between its ethically impregnated system of rights, and the procedural mechanisms required to sustain their reflexivity and openness to contest required by the conceptualisation of the constitution as a learning process, this schism is likely to be more unstable at the level of the individual citizen.

The demand made of citizens in discursive democracy, that they retain a firm commitment to engage in consensus-seeking dialogue, appears to be an ethical one. Why should citizens continue to aim to secure consensus in spite of their experience of the conflict-ridden nature of politics. Faced with deep discord why should they aim at finding the right answer to legal-political disputes as opposed to falling back on a 'cognitively undiscerning' *modus vivendi* settlement to stem ongoing disagreements? Even with the basic structure of rights in place, it appears that there is nothing which would prevent citizens, when faced with deep disagreements over the interpretation of basic norms, from treating their opponents as infidels or dissidents to be tolerated as opposed to discursive partners to be persuaded. Why should citizens take up a reflective stance to their own deeply held values in order to present their own positions by appealing to "reasons that could convince anyone irrespective of time or place"?[147] In diverse societies, the temptation to renounce the demanding presuppositions of discourse and to look instead for alternative means to secure their particular aims appears to be strong. It seems profoundly optimistic to assume that individuals will be motivated to justify

their own sincerely held views and values in a 'reflexive' way merely on the basis that their conceptions of the good do not command universal consent and respect.

Habermas responds to these questions and the issues that they raise, not with reassurance, but with a cautionary note about the role of philosophy in a disenchanted world. He thinks that philosophy should seek to defend its competence in those areas in which it can advance and defend universal statements.[148] His aim is to clarify what he takes to be 'the moral point of view' and consider what is formally required by it. He asks what we must demand of the self *if* it is to meet the demands of moral and political life ordered according to rational and democratic principles. He states,

> "A moral theory that no longer claims to know the telos of "the" good life must leave the question "Why be moral?" unanswered... ... The disposition to act responsibly is contingent on processes of socialization and the degree of success in identity formation. But an identity cannot be produced by arguments."[149]

While discourse defines the moral point of view, and the principle of democracy designates its imprecation in the legal form, neither can produce prescriptions for individual action. This motivational weakness, Habermas thinks, can be compensated for by positive law backed by sanctions, which appeals to individual self-interest. However, since the stability of constitutionalism is dependent upon citizens taking up a performative, as opposed to a strategic attitude to positive law, it will also be dependent upon the empirical and contingent condition of "the convergence of a country's people upon the discourse ideal"[150]. Since the normative potentials of procedural democracy are realised only on condition that individuals take up their role as citizens as well as clients within the constitutional state, an explicit account of the ethical foundations required to sustain these normative potentials could offer a useful complement to a theory of deliberative democracy. It is not clear that the existential and moral dimensions of existence can be compartmentalised in the way that seems to be required by Habermas's idea of 'role differentiation'. William Connolly has argued that the way in which,

> "people come to terms privately and publicly with existential issues bears a profound relation to how they engage the issue of identity, and that how they define the question of individual and associational identity bears a close relation to the way collective identity is lived. Habermas is tempted by the wish to exclude existential issues from political theory,

> but, again, they seep back in. He appears to think that because no organization of public life can *resolve* or *eliminate* existential suffering, these issues can be excluded from public discourse."[151]

This, Connolly insists, is to evince the true nature of the political, which is characterised by contingency and struggle engendered by challenges to the self-confidence of established identities brought to bear by the alternative struggles of self-making among diverse individuals.

While Connolly's criticism is useful in highlighting the interdependence between political and existential dimensions of collective political life, questions remain as to how existential questions might be incorporated into a theory of democracy that aims to make democratic procedures receptive to good reasons as opposed to being held hostage by instrumental goals and individual interests.

One of the most promising attempts to provide a response to this dilemma has been in the area of attempts to develop a more specifically political conception of judgement[152]. Ricardo Blaug traces Habermas's attempt to sharply delineate 'ethical-existential questions regarding the good life' from 'moral-practical ones regarding justice' to his model of 'determinate judgement'.[153] On this model, a judgement is valid when it makes a successful appeal to context-transcendent standards. Blaug points out that where judgement is reliant upon extra-contextual standards of this kind, it becomes a peculiarly rational, disinterested and abstract faculty.[154] While offering an account of the validity of judgements, it does not provide an understanding of how the everyday activity of judgement takes place. His own model draws upon Wittgenstein's response to the 'problem of universals'.[155] Blaug claims that on Wittgenstein's view, we arrive at an understanding of what is meant by the predicate 'game', not by identifying a universal through the inspection of particulars, but by isolating a specific quality by discerning family resemblances between closely related practices. Applying this idea to democratic procedures implies that we cannot dissociate judgements about their fairness from our immersion within the form of life that these practices define. This view allows us, Blaug suggests, to associate the activity of judging with a subject that is not detached from her intuitions, emotions and affective ties, since judgement requires a reflective examination of concrete experience. It therefore may go some way to addressing the motivational deficit, which Taylor identifies as the central difficulty of discourse ethics.

Blaug suggests that in order to provide an adequate account of political citizenship, Habermas's attempt to describe the validity of judgement in terms of the internal relation between meaning and validity, must be supplemented by an account of what citizens do when they make judgements. While Habermas might respond that a phenomenology of judgement is beyond the scope of a philosophy that restricts itself to making universal claims, he risks severing his theory from the real-world nature of political life, in which it is neither possible nor desirable to impose comparable restrictions on the scope of legitimate political concern.

Conclusion

Debates currently taking place within political theory about identity and difference raise important questions about how citizenship might be understood within modern pluralistic liberal democratic societies. These debates have too often been framed by a partial and attenuated conception of constitutionalism. Popular sovereignty is required as a deep source of political legitimacy, yet little account is given to the extent to which fractured value horizons have made this idea deeply problematic. Too often, attention focuses on issues of rights, representation and matters of public policy, and taken for granted is the idea that these structures can be anchored securely within a relatively stable and cohesive political community. Insufficient attention is given to conceptualising the people, who must serve as the ultimate source of public authority. That this cramped conception of constitutionalism has gained ascendancy within modern political thought has been to the detriment of contemporary debates about identity and difference for several reasons.

Firstly, the extent to which principle of popular sovereignty, which serves as a deep source of legitimacy for modern constitutionalism, actually engenders problems of difference is overlooked. The politics of difference is equated with the rise of diversity traced to contingent socio-cultural changes, and established constitutional structures and norms are placed beyond contest and accorded a privileged status. Either the claims pressed by minority cultural groups are treated as being inimical to the defining principles of liberal constitutionalism, such as equal rights and principles of non-discrimination, or else, they are understood as having normative weight in virtue of the constitutional state's having been hijacked by a homogenising and thereby exclusionary understanding of membership. In either way, the fact that exclusion is constative for democracy is overlooked.

Secondly, equal membership is defined in terms of a fair distribution of the benefits and burdens of citizenship through the state and its agencies, which must allocate rights and resources in a way that respects the equal dignity of all citizens. In short, debates about identity and difference are viewed through the lens of justice and become polarised around the issue of whether or not identity related differences such as culture, ethnicity or language are proper objects for justice. On the one side are those who argue that justice requires that the state

should protect marginalised cultures from the pressure to assimilate into an overarching common culture. This protection may take the form of rights and immunities, financial and other sources of support from the state and its agencies, or guaranteed representation in state legislatures. On the other side are those who argue that the state has a responsibility to remain neutral or difference-blind in relation to culture, ethnicity and religion, so as to formulate principles for the determination of law and public policy that all citizens can accept as legitimate. Each of these positions must make strong claims about identity as a condition of deciding which features of a person's identity are central and which are peripheral in deciding the terms of justice. However strong claims about identity, determined from an externalist perspective, that is, from a standpoint that bypasses the self-understanding of the agent, are notoriously difficult to defend in the aftermath of the 'linguistic turn' in modern philosophy. Additional considerations caution against making strong claims about the general significance of ethnicity, nationality, culture or language in defining individual identity. The extent to which an agent understands these features as being central to her identity will be dependent upon extrinsic factors, such as whether the given identity is threatened or secure; whether it is stigmatized or rewarded by prevailing institutional, economic and social structures; whether it is respected or maligned internationally and by a globalized media.

Thirdly, and finally, a view of constitutionalism which focuses on rights at the expense of civic duties or liberal virtues is detrimental to debates about identity, since it leaves no space for a consideration of the potentially transformative potentials of democratic deliberation. Instead, issues of identity and difference become the site of intractable struggles over rights and resources allocated by the state, and the status of the citizen is reduced to that of a client.

In light of the obstacles that these dominant liberal conceptions of constitutionalism and citizenship present for arriving at a deeper understanding of the challenges raised by the politics of identity and difference within contemporary societies, the ambitious and comprehensive alternatives offered by Taylor's ontological liberalism, and Habermas's discursive democracy, deserve careful consideration. Both Taylor and Habermas demonstrate an appreciation of three themes which are key to understanding questions surrounding citizenship and identity in modern diverse societies, and provide important responses to the three key

problems outlined above.

1) The 'constituent power' as the authorising source of modern constitutionalism

As opposed to understanding the politics of difference as being epiphenomenal, that is, as being consequent upon new forms of social difference that challenge already established constitutional structures, both Taylor and Habermas understand the phenomena of pluralism as presenting an equally fundamental challenge to the legitimating ideals of liberal constitutionalism, in particular, to the principle of popular sovereignty. This is because each develops an analysis of pluralism from within the standpoint of a broader and deeper interrogation of modernity. In each case, their assessments of modernity take seriously Nietzsche's claim that the 'death of God' entails the closure of the metaphysical and moral frameworks that have traditionally provided individuals with sources of meaning and purpose.[1] As a result, both recognise the need to interrogate the standards that have conventionally been understood as providing unproblematic sources of social integration.

Much liberal political thought has remained implicitly reliant upon some form of social consensus, which can underwrite its far-reaching claims about the constitutional structures most appropriate for well-ordered and just societies. However, once the comfort and harmony of a cosmos aligned with God's providential ordering has been completely abandoned, the basis for this social consensus appears much more shaky. This has implications for attempts to provide an account of the public justification for political authority. As Richard Vernon aptly puts it, once politics can no longer draw upon pre-existing sources of legitimacy and integration "political authority comes to carry a radically more stringent burden of justification, with fewer resources lying ready to hand."[2] There appears no alternative to casting 'the people' as the ultimate source of authorisation for political power. A political theory that takes seriously the insight that citizens are free under a system of law to the extent that they originate or actively endorse the set of institutional arrangements which are codified and binding for the legitimate exercise of power, must develop some account of how the people can be understood as the 'constitutive power' within the constitutional order.

Both Taylor and Habermas have attempted to take this idea seriously by appropriating

the republican ideals of popular sovereignty and self-rule as a complement to the traditional emphasis of liberalism on individual rights. Each recognises that while law is associated with order due to its capacity to coordinate action, citizenship is a precondition for order in the sense of providing for intersubjective understandings that sustain positive identification with, and possibilities for participation in a shared political community. In this respect, each offers a more comprehensive treatment of constitutionalism than is provided for by accounts that focus exclusively on the mechanisms available to already constituted powers, such as rights and representation, as a response to the pluralism that threatens to destabilize these same mechanisms at their very foundations.

2) The 'dialogical' nature of individual identity

Both Taylor and Habermas attempt to distance themselves from those paradigms of justice and distribution that are reliant upon strong claims about personal identity[3]. Again, this is in part due to their attention to broader themes within modernity. For Habermas, as for Taylor, the individual's sense of herself as autonomous and her dependence upon interpersonal relationships grow together in the modern world. While Taylor argues that recognition is a 'vital human need', he suggests that it comes to be recognised as such, only with the collapse of social hierarchies that rendered relations of recognition comparatively unproblematic.[4] Both acknowledge that in circumstances of modernity, identities have been destabilized so that the late modern self comes to be seen as a 'reflexive project', "in perpetual process of becoming instead of being".[5] This leads to an appreciation of the dialogic and intersubjective nature of individual identity.

As opposed to liberal models that propose cultural accommodations on the grounds of attaching some normative significance to culture itself, the insight that identities are intersubjectively formed, provides a more cogent starting point for discussing cultural accommodations. The insight that socialization and individuation occur only through relationships of reciprocal recognition belies the construction of rights as possessions of private, autarkic individuals and so causes difficulties for accounts that interpret citizenship primarily as a 'status'. Once mutual exchanges of recognition are understood as having a

constructive role in the formation of personal identity, and as taking place in circumstances in which these exchanges are no longer tied to fixed social structures, identity becomes a site of vulnerability. This insight can contribute significantly to debates about identity and citizenship in providing for a more comprehensive understanding of the inclusion/ exclusion dynamic in modern democratic politics, as we saw in Chapter Three.

3) The deliberative public sphere

Both themes discussed above serve to highlight the importance of a third theme that might enable us to re-orient debates about identity and difference, and which is central to both Taylor and Habermas's approaches. This is the idea of deliberation in a shared and inclusive public realm. In circumstances in which traditional forms of authority underwriting standards of legal, political and moral validity, are no longer available, attention must once again come to focus on the role of the 'people' as the 'constituent power' underwriting modern constitutionalism. In the absence of any anterior shared value horizons to which citizens can appeal, these standards must be collectively generated through inclusive processes of public deliberation. At the same time, the recognition approach highlights the fact that modern identities must be understood in 'dialogical' and relational terms, rather than as pre-social possessions of individuals. Hence deliberation in the public sphere should not be understood primarily as a mode of bargaining over pre-political interests, since the process of deliberation will itself contribute to the self-understanding of individuals whose identities are simultaneously revealed and constructed through discursive interactions.

Focusing attention upon the public sphere offers a useful standpoint from which to consider the specificity of political relationships. The political cannot be a sphere for the expression of a deep, authentic, or pre-existing self, which defines an agent prior to her own self-disclosure. Self-disclosure will itself, given the dialogical nature of identity, be simultaneously an act of self-discovery. Equally, the political cannot be framed in exclusively juridical terms, since the reflexive self will always resist attempts to 'fix' this identity, which is always in the process of becoming. In highlighting the importance of these three themes, the 'constituent power', 'the dialogical self' and the 'public sphere' within their work, Taylor and

Habermas identify useful starting points for a more satisfactory treatment of issues of identity and difference, and the nature of citizenship in modern constitutional democracies.

Stabilising uncertainty through 'teleology' and 'post-conventional morality'.

Neither Taylor nor Habermas offer an entirely satisfactory account of the themes highlighted in the foregoing. Ultimately, both draw upon their respective accounts of modernity in ways that insulate the political from the central experience of life among others as a source of vulnerability and potential alienation, since each appeals to some source of social integration anterior to politics. In Taylor's case the appeal is to an incipient teleology. This stabilizes the collective life of diverse individuals whose quests for self-creation and self-discovery can only be supported by a framework that recognises plural goods and values. In Habermas's case, the appeal is to a post-conventional morality with a strongly cognitivist core. This provides strong rational grounds for moral agency, but we must look elsewhere for the well-springs of motivation that make it an effective form of collective action co-ordination. Hence, Habermas is pushed back to the empirical claim about the potentials for 'rationalization' inherent in modernity.

To the extent that citizens are integrated in these terms, the society envisaged is a post-political society. It is a society without politics, or at least with only an attenuated version of politics.[6] On the basis of these post-political accounts of citizenship, Taylor and Habermas are led to identify the constructive enterprise of fostering democratic inclusion with achieving just and transparent relationships of mutual recognition in which the tensions animating the dynamics of inclusion/exclusion will be eradicated. Each uses their account of democratic citizenship to redeem individuals from the experience of fragility and insecurity that necessarily attaches to the inescapable task of constructing and negotiating collective identities within diverse societies.

Recently an important literature has been developing which takes this experience of the vulnerability of individual and collective identity, not just as the starting point for conceptualising a society within which relations of reciprocal recognition are mutually transparent and just, but as the defining feature of democracy itself.[7] Crucially, from this

perspective political legitimacy is not dependent upon finding a final solution to the politics of recognition since no such settlement is available[8]. Rather, it is grounded in the fact that "citizens are always free to enter into a process of contestation and negotiation of these rules of recognition."[9] 'Agonistic democracy' is the term often used to describe accounts that seek to reclaim 'the political' for a politics based around ideas of conflict and contestation. However, these accounts often simply turn the tables on the dominant liberal models of politics, which they regard as rationalistic and hostile to the existential basis of political conflict.[10] Hence consensus is replaced by conflict, order by contingency, stability by fragility and constitutionalism is decentred through an emphasis on 'aconstitutional' forms of political action.

'Agonistic democrats', such as James Tully and Bonnie Honig, have drawn upon Arendt's conception of political action, but have done so rather selectively. They emphasise the tense and ambivalent relationship between the legal constitutional order, and the unpredictable and boundless character of political action. However they overlook the extent to which political action is for Arendt connected with deliberative judgement. Arendt suggests that the boundlessness of action in public space is only the reverse side of its capacity to generate intersubjective understandings. She holds that political action must not only be rooted in constitutional structures, but also underwritten by a 'common sense' made available to those who share a 'common world'. Her conception of common sense appears to have some affinities with Blaug's conception of political judgement alluded to in Chapter Five. Common sense, she suggests, "controls and adjusts all strictly particular sense data to those of all others"[11]. She describes common sense, as the "political sense par excellence."[12] While Arendt herself never developed a comprehensive theory of judgement, I suggest that it may now be profitable for political theory to engage seriously with the idea of political judgement.

ENDNOTES

Introduction

[1] For a study of pathological disorders of the love relationship see. Benjamin, J. Chapter 2. *The Bonds of Love: Psychoanalysis, Feminism and the Problem of Power* (New York: Pantheon, 1988). See also Honneth, A. Chapter 5. *The Struggle for Recognition: The Moral Grammar of Social Conflicts* Translated by Joel Anderson (Cambridge: Polity, 1995)

[2] Honneth, A. p106 *The Struggle for Recognition: The Moral Grammar of Social Conflicts* Translated by Joel Anderson (Cambridge: Polity, 1995)

[3] For a fuller discussion of this idea see Chapter Three (section 1.23). Here, in the course of reviewing Taylor's account of shared goods, I consider in detail Taylor's claim that it is part of the essential meaning of love or deep friendship that it must be shared between two individuals and cannot be disaggregated into individual goods.

[4] O'Sullivan, N. p19 'The Political and the Concept of the Public' in *Studies in Humanities and Social Sciences,* Vol. IV, No. 2 (1997): 1-22

[5] Bader, V. p211 'Citizenship and Exclusion: Radical Democracy, Community and Justice. Or What is Wrong with Communitarianism?' *Political Theory,* Vol. 23, No. 2. (May 1995): 211-246.

[6] Taylor, C. p123 'Multiculturalism and Political Identity' in the Review Symposium on Bhikhu Parekh's 'Rethinking Multiculturalism' *Ethnicities,* Vol. 1, No. 1. (2001): 122-128

[7] Rousseau, J. J. p126 'Letter to M. d'Alembert' on the Theatre in Bloom, A. (ed.) *Politics and the Arts* (Ithaca, New York: Cornell University Press, 1991)

[8] Rousseau, J. J p333 'Emile' Book V and p239 'The Social Contract' both in *The Social Contract and Discourses* Translated and introduced by G. D. H Cole (London: Everyman, 1993)

[9] Canovan, M. p290 'Arendt, Rousseau, and Human Plurality in Politics', *The Journal of Politics,* Vol. 45, Issue. 2 (May 1983): 286-302

[10] Arendt, H. pp465-466 *The Origins of Totalitarianism* (London: Harverst, 1976): Arendt, H. p163-164 'What is Freedom?' in *Between Past and Future: Eight Exercises in Political Thought* (London & New York: Penguin, 1993): Arendt, H. pp76-77 *On Revolution* (London: Penguin, 1990)

[11] Arendt's argument here is not uncontroversial. Scheuerman points out that Arendt, in representing Rousseau as a forerunner of dictatorship and the totalitarian regimes of Hitler and Stalin, badly misrepresents crucial components of Rousseau's thinking. Scheuerman, W. E. p263 'Revolutions and Constitutions: Hannah Arendt's Challenge to Carl Schmitt' in David Dyzenhaus (ed.) *Law as Politics: Carl Schmitt's Critique of Liberalism* (Durham & London: Duke University Press, 1998): 252- 280

[12] Arendt H. p163 *On Revolution* (London: Penguin, 1990). Compare Claude Lefort's analysis of totalitarianism in Lefort, C. *Democracy and Political Theory,* translated by David Macey (Minneapolis: University of Minnesota Press, 1988)

[13] Arendt, H. p465-466 *The Origins of Totalitarianism* (San Diego, New York & London: Harcourt Inc, 1976)

[14] Isaac, J. p68 'A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights', *The American Political Science Review,* Vol. 90, Issue 1 (March 1996): 61-73

[15] Habermas, J. p2 'Three Normative Models of Democracy' in *Constellations,* Vol.1, No. 1 1994: 1-10

[16] E.g. Hobbes, T. *Leviathan,* Macpherson, C. B. (ed.) (London: Penguin, 1985): Laslett, P. (ed.) *John Locke, Two Treatises of Government* (Cambridge: CUP, 1988)

[17] Hobbes' *Leviathan* is typically representative of this sort of view. Habermas regards Hobbes as "the real founder of liberalism" precisely on account of the fact that his methodological approach and starting point are so thoroughly individualistic. Habermas, J. p67 *Theory and Practice* Translated by John Viertel (Cambridge: Polity Press, 1996)

[18] Schwarz, J. M. p5 *The Permanence of the Political: A Democratic Critique of the Radical Impulse to Transcend Politics* (Princeton, New Jersey: Princeton University Press, 1995)

[19] Wolin, S. p434 *Politics and Vision* (London: George Allen & Unwin, 1961)

[20] For recent academic studies on citizenship see for example, G. Andrews (ed.), *Citizenship* (London, Lawrence and Wishart, 1991), R. Beiner, *Theorizing Citizenship* (Albany: State University of New

York Press, 1995). K. Faulks *Citizenship* (London and New York: Routledge, 2000) E. F. Isin and P. K. Wood *Citizenship and Identity* (London: Sage, 1999), G. Shafir, *The Citizenship Debates: A Reader* (Minneapolis: University of Minnesota Press, 1998) N. Stevenson, *Cultural Citizenship: Cosmopolitan Questions* (Berkshire: Open University Press, 2003)

[21] *Life in the United Kingdom: A Journey to Citizenship* (Home Office: December 15th 2004)

[22] Citizenship ceremonies are also a key component of Canadian and Australian naturalisation procedures.

[23] Habermas, J. p404 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' in *Public Culture* 10/2 (1998): 397-416

[24] Habermas notes that this cultural mode of social integration does not require a culturally homogenous population, but suggests that it does require some form of cultural assimilation to the dominant identity. He claims therefore that in the United States, "a civil religion rooted in the majority culture took the place of nationalism". Habermas, J. p404 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' in *Public Culture* 10/2 (1998): 397-416.

[25] Nagel, T. p302 'Moral Conflict and Political Legitimacy' in Raz, J. (ed.) *Authority* (Oxford: Blackwell, 1990)

[26] Benhabib, S. 'Liberal Dialogue Versus a Critical Theory of Discursive Legitimation' in Rosenblum, N. (Ed) *Liberalism and the Moral Life* (Cambridge, Massachusetts: Harvard University Press, 1989): 143-156

[27] Connolly, W. p311 'The Dilemma of Legitimacy' in Nelson, J. S. *What Should Political Theory be Now?* (Albany; State of New York Press, 1983): 307-337

[28] Chambers, S. p158 'Democracy, Popular Sovereignty, and Constitutional Legitimacy' in *Constellations,* Volume 11, No. 2 (2004): 152-173

[29] Habermas, J. p1490 'Reply to Symposium Participants', *Cardozo Law Review,* Vol 17 (1996): 1477-1557

[30] Festenstein, M. p138 Negotiating Diversity: Culture, Deliberation, Trust (Cambridge: Polity, 2005)

[31] Gray, J. p.4. *Two Faces of Liberalism* (Cambridge: Polity, 2001)

Chapter One

[1] Tiffany Jenkins, 'The museum of political correctness' in *The Independent Review* (Tuesday 25th January 2005)

[2] Edward Rothstein 'Museum Review: Museum with an American Indian Voice' *New York Times* Tuesday September 21st 2004; Tiffany Jenkins, 'The museum of political correctness' in *The Independent Review* (Tuesday 25th January 2005)

[3] *Ibid*

[4] Tiffany Jenkins, 'The museum of political correctness' in *The Independent Review* (Tuesday 25th January 2005)

[5] Edward Rothstein 'Museum Review: Museum with an American Indian Voice' *New York Times* (Tuesday September 21st 2004)

[6] The issue of whether religious symbols should be permitted in schools has become controversial in many Western European countries. The right to wear religious symbols within state schools is disputed by those who believe that the state can maintain a viable and over-arching political identity which is acceptable to all, only by upholding a secular identity within public institutions. In France, where the commitment to a secular conception of citizenship is strong, a ban on conspicuous religious symbols came into effect in September 2004. Similar proposals are tabled in Belgium and Germany. In Britain, where no such national policy is operative, the issue of whether to allow religious symbols is left to the discretion of head teachers and governing bodies, but bans imposed by individual schools have sometimes been overturned in British courts. The ban on religious symbols is often believed to have a disproportionately severe impact on Muslim women who choose to wear the *hijab.*

Another issue that has received a lot of media attention is Britain is the proposed legislation to protect religious groups from denigration in public life. The stated aim of the legislation is to close an unacceptable loop-hole in existing provisions against prejudice and discrimination whereby 'mono-ethnic religious groups (such as Jews and Sikhs) are covered by existing laws but multiethnic religious groups (such as Muslims and Hindus) are not. The proposed legislation has met with some opposition. For example, Salman Rushdie has utilised his public profile and the British media to polemicise about the policy. He argues that the proposed British legislation is a concession made to religious groups in bad faith which compromises the hard won achievements of the Enlightenment and its foremost achievement in the form of "an escape from the power of

religion to place limiting points on thoughtSee for example Salman Rushdie, 'In Bad Faith' *The Guardian* (Monday March 14th 2004)

A comprehensive discussion on the practical dilemmas thrown up by multiculturalism in the British arena is contained in the Report produced by the Runnymede Trust Commission on the Future of Multi-Ethnic Britain *The Future of Multi-Ethnic Britain* (London: The Runneymede Trust, 2000)

[7] Kymlicka, W. p127 *Multicultural Citizenship* (Oxford: Clarendon Press, 1995)

[8] Kukathas, C. p250 'Nationalism and Multiculturalism' in Kukathas, C & Gaus, G. F (Ed) *Handbook of Political Theory* (London: Sage, 2004): 250-263

[9] See *UN Draft Declaration* 23-08-1993. I am grateful to Malte Gerhold for drawing my attention to this.

[10] Rawls, J. *A Theory of Justice* (Oxford University Press: London, 1971): Rawls, J. *Political Liberalism* (New York: Columbia University Press, 1993): Barry, B. *Culture and Equality* (Cambridge: Polity Press, 2001): Macedo, S. 'Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls' in *Ethics* 105 (April 1995): 468-496: Holmes, S. 'Gag Rules and the Politics of Omission' in Elster, J. and Slagstad, R. *Constitutionalism and Democracy* (Cambridge: Cambridge University Press, 1988)

[11] This is the way in which Will Kymlicka defends cultural rights in his *Liberalism Community and Culture* (Oxford: Clarendon Press, 1984), though in more recent works he has developed a sophisticated argument for minority rights as a compensatory measure designed to protect minority groups from the unintended consequences of the legitimate enterprise of state nation-building. Kymlicka, W. p229-234 *Politics in the Vernacular* (Oxford: Oxford University Press, 2001)

[12] Christine Sypnowhich has noted that it is tempting to view cultural rights as the next rung on the ladder of progressive social and political emancipation marked out by T. H Marshall. [Sypnowich, C. p532 'The Culture of Citizenship' in *Politics and Society,* Vol. 28, No. 4 (December 2000): 531-555] In the post war era, T. H Marshall advanced a powerful case for social rights, claiming them to be essential for the realisation of a meaningful citizenship status in which individuals are integrated as full members of a political community. Reviewing the evolution of rights in the English context, he suggests that political and social rights are granted in successive centuries, utilising the integrative quality of citizenship to further the goal of genuine civic equality against a background of capitalist development. [Marshall, T.H. *Citizenship and Social Class* (1950); reprinted in: *Citizenship and Social Class*; T.H. Marshall/Tom Bottomore; (London: Pluto Press, 1992)]. Engin F. Isin and Patricia K. Wood have also attempted to build on Marshall's conception of citizenship to include ethnic, sexual and cultural forms of citizenship, [Isin, E. F and Wood, P. K *Citizenship and Identity* (London: Sage, 1999)]. Kymlicka too regards Marshall's influential theory of citizenship as being a useful source from which to develop an account of cultural rights. Marshall, he suggests, "developed a theory about the integrative function of citizenship rights." Marshall was concerned with the cultural exclusion of the working class alongside material inequality. Kymlicka claims that, in ways analogous to the working class, cultural groups "are now demanding inclusion into the dominant national culture." [Kymlicka, W. p180 *Multicultural Citizenship* (Oxford: Clarendon Press, 1995)]

[13] Yet another distinctive approach to questions of citizenship and cultural claims has been developed by radical democrats such as Chantalle Mouffe. Mouffe argues that the model of citizenship appropriate for modern pluralistic societies does not simply extend the scope of citizenship rights to include a progressively wider range of individuals and groups, but opens up the possibilities for contestation of contingent identity constructions. Mouffe, C. p21 *The Democratic Paradox* (London & New York: Verso, 2000) Mouffe's approach shares many similarities with other 'agonistic' conceptions of citizenship such as Honig, B. *Political Theory and the Displacement of Politics* (Ithaca & London: Cornell University Press: 1993) & Connolly, W. *Identity\Difference: Democratic Negotiations of Political Paradox* Expanded Edition (Minneapolis/ London: University Of Minnesota Press: 2002 (1991))

[14] Here I broadly concur with David Miller's contention that "the practice of citizenship must, for as far ahead as we can reasonably envisage, be confined within the boundaries of national political communities." Miller, D. p60 'Bounded Citizenship' in *Cosmopolitan Citizenship* Edited by Hutchings, K. and Dannreuther, R. in *Cosmopolitan Citizenship* (Hampshire: MacMillan, 1999): 60-79. Miller argues that while international law may be an important mechanism available to individuals for purposes of defending their human rights against violations by the state, a cosmopolitan citizenship offers too a thin version of liberal citizenship to displace the ideal of citizenship within bounded political communities. The idea here is that only within a bounded political community can the state define the rights of citizens in ways which resonate with individuals because they reflect the political culture and deliberatively engendered will of the national community.

[15] Ivison, D. p197 'Modus Vivendi Citizenship' in McKinnon, C. and Hampsher-Monk, I. *The Demands of Citizenship* (London and New York: Continuum, 2000): 123-143

[16] Isin, E. F and Wood, P. K p19 *Citizenship and Identity* (London: Sage, 1999)

[17] Yack, B. p519 'Popular Sovereignty and Nationalism' in *Political Theory* Vol.29, No.4 (August 2001): 517-536

[18] Miller, D. p60 'Bounded Citizenship' in *Cosmopolitan Citizenship* Edited by Hutchings, K. and Dannreuther, R. in *Cosmopolitan Citizenship* (Hampshire: MacMillan, 1999): 60-79

[19] Offe, C. p114 '"Homogeneity" and Constitutional Democracy: Coping with Identity Conflicts through Group Rights' in *The Journal of Political Philosophy* Vol. 6 No. 2 (1998): 113-141

[20] Compare Benhabib, S. p108 *Situating the Self: gender, community and postmodernism in contemporary ethics* (Cambridge: Polity, 1992)

[21] Mendus, S. *Toleration and the Limits of Liberalism* (London: Macmillan, 1989)

[22] Locke p31 'A Letter Concerning Toleration' in *Essays by John Locke* (London: Ward, Lock and Co., Limited, 18-- ?)

[23] For example, Mill, J. S. *On Liberty* in Gray, J. (ed.) *John Stuart Mill On Liberty and Other Essays* (Oxford: Oxford University Press, 1991)

[24] Locke p28. 'A Letter Concerning Toleration' in *Essays by John Locke* (London: Ward, Lock and Co., Limited, 18-- ?)

[25] Smith, A. *An Inquiry into the nature and causes of the wealth of nations.* (London: Methuen, 1950)

[26] Bellamy, R. p18 *Liberalism and Pluralism: Towards a politics of compromise* (London & New York: Routledge, 1999)

[27] Hayek, F.A *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960)

[28] Habermas, J. p67 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[29] Benhabib, S. p108 *Situating the Self: gender, community and postmodernism in contemporary ethics* (Cambridge: Polity, 1992)

[30] Arendt, H. p119 *The Human Condition* (Chicago and London: University of Chicago Press, 1998)

[31] Refer back to FN 6 (Chapter One).

[32] Benhabib, S. p109 *Situating the Self: gender, community and postmodernism in contemporary ethics* (Cambridge: Polity, 1992)

[33] John Gray argues that the novelty and distinctiveness of modernity lies in its 'hostility to hierarchies'. Gray, J. p4 *Two Faces of Liberalism* (Cambridge: Polity, 2000). On this approach modernity is characterised by the growing belief that traditional forms of authority and deeply rooted systems of social order are inimical to freedom and autonomy. It is this break with traditional forms of authority that invests the people with the ultimate sanction for authority and renders popular sovereignty an important source of legitimation for modern states. This connection between the rise of modernity and the significance attached to 'the people' as the only source of political authority appears to hold for either of the two conceptions of popular sovereignty that William Nelson has helpfully distinguished. The first, which he identifies with Rousseau and Kant, turns upon the desire to enjoin coercive law with moral autonomy. The second, he identifies with the English liberal tradition and the idea that restrictions upon individual choice and freedom though necessary should be limited to those instances in which they can be shown to be in the interests of those whose freedom is restricted. Nelson, W. N. p62-63 *On Justifying Democracy* (London, Boston and Henley: Routledge Kegan Paul, 1980)

[34] Schmitt, C. p66 *Political Theology: four chapters on the concept of sovereignty* (Cambridge: MIT Press, 1985)

[35] Here, Emmanuel Joseph Sieyes may be presented as a representative of this tendency to use the doctrine of popular sovereignty as a pretext for national self-assertion. Sieyes, E. J. *What is the Third Estate?* trans. Blondel, M. (London: Pall Mall Press, 1963)

[36] Canovan, M. p1-2 *The People* (Cambridge: Polity, 2005)

[37] E.g. Ackerman, B. *We the People I: Foundations* (Cambridge, Mass.: Harvard University Press, 1991): Ackerman, B. *We the People II: Transformations* (Cambridge, Mass.: Harvard University Press, 1992): Canovan, M. *The People* (Cambridge: Polity, 2005) Chambers, S. 'Democracy, Popular Sovereignty and Constitutional Legitimacy' *Constellations* Vol. 11, Number 2 (2004): 152-173: Habermas, J. 'Popular Sovereignty as Procedure' in *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996):463-490 Kalyvas, A. 'Popular Sovereignty, Democracy, and the Constituent Power' in *Constellations* Vol. 12, No.2 (2005): 223-244 Yack, B. 'Popular Sovereignty and Nationalism' *Political Theory* Vol. 29, No. 4 (August 2001): 517-536:

[38] Bader, V. p211 'Citizenship and Exclusion: Radical Democracy, Community and Justice. Or What Is Wrong with Communitarianism?' in *Political Theory,* Volume 23. No. 2. (May 1995): 211-246

[39] Walters, M. *Globalization* (London: Routledge, 1995)

[40] Beiner, R. p1 *Theorising Citizenship* (Albany: Sate University of New York Press, 1995)

[41] Berlin, I. 'Two Concepts of Liberty' in Berlin, I. *Four Essays on Liberty* (Oxford: OUP, 1969):118-172

[42] Mill, J. S. 'Considerations of Representative Government' pp239-256 in Gray, J. (ed.) *John Stuart Mill: On Liberty and Other Essays.* (Oxford: Oxford University Press, 1991): Tocqueville, A. p73-74 'Volume One of *Democracy in America 1935'* in Zunz, O. and Kahan, A. S. *The Tocqueville Reader* (Oxford: Blackwell, 2002) Though Tocqueville expresses his approval for democratic self-rule in measured terms describing it as an "irresistible force".

[43] Ackerman, B. *We the People I: Foundations* (Cambridge, Mass.: Harvard University Press, 1991)

[44] Arato, A. P169 'Dilemmas Arising from the Power to Create Constitutions in Eastern Europe' in Rosenfeld, M. (Ed.) *Constitutionalism, Identity, Difference and Legitimacy* (Durham and London: Duke University Press: 1994): 165-194

[45] Presby, G. M. see pp524-525 'Founding a New Government in Iraq' *Constellations* Vol.12, No.4 (2005): 521-541

[46] Forsyth, M. p191 'Thomas Hobbes and the Constituent Power of the People' in *Political Studies* Vol. XXIX, No.2 (1981): 191-203

[47] Arendt, H. *On Revolution* (Penguin: London and New York, 1990)

[48] Morgan, E. S. p15 *Inventing the People* (London and New York: W. W. Norton & Co., 1988)

[49] Macedo, p40 *Liberal Virtues: Citizenship, Virtue and Community in Liberal Constitutionalism* (Oxford: Clarendon, 1991)

[50] Gilbert, P. pp86-87 *Peoples, Cultures and Nations in Political Philosophy* (Edinburgh: Edinburgh University Press, 2000)

[51] Lessnoff, M. p3 *Social Contract Theory* (Oxford: Blackwell, 1990)

[52] Steinberg, J. p3. *Locke, Rousseau and the Idea of Consent: An enquiry into the Liberal Democratic Theory of Political Obligation* (Connecticut: Greenwood Press, 1978)

[53] Hobbes, T. *Leviathan* Macpherson, C. B. (Ed.) (London: Penguin, 1985) Laslett, P. (ed.) *John Locke, Two Treatises of Government* (Cambridge: CUP, 1988): Rousseau, J-J 'The Social Contract' in *The Social Contract and Discourses* Translated and introduced by G. D. H. Cole (London: Everyman, 1993)

[54] Lessnoff, M. p4 *Social Contract Theory* (Oxford: Blackwell, 1990)

[55] Forsyth, M. p191 'Thomas Hobbes and the Constituent Power of the People' in *Political Studies* Vol. XXIX, No.2 (1981): 191-203

[56] Franklin, J. H *John Locke and the Theory of Sovereignty* (Cambridge: Cambridge University Press, 1978)

[57] Locke, J. Ch. VIII ¶95 "When any number of Men have so *consented to make one Community* or Government, they are thereby presently incorporated, and make *one Body Politick,* wherein the *Majority* have a Right to act and conclude the rest." 'The Second Treatise of Government: An essay concerning the True, Original, Extent and End of Civil Government', in Laslett, P. (ed.) p331 *John Locke, Two Treatises of Government* (Cambridge: CUP, 1988)

[58] *Ibid*. Ch. VIII ¶96

[59] Steinberg, J. p3. *Locke, Rousseau and the Idea of Consent: An enquiry into the Liberal Democratic Theory of Political Obligation* (Connecticut: Greenwood Press, 1978)

[60] Locke, J. Ch. XI ¶142 'The Second Treatise of Government: An essay concerning the True, Original, Extent and End of Civil Government', in Laslett, P. (Ed.) p363 *John Locke, Two Treatises of Government* (Cambridge: CUP, 1988)

[61] Lessnoff, M. p11 *Social Contract Theory* (Oxford: Blackwell, 1990)

[62] Locke, J. Ch. XIII ¶149 'The Second Treatise of Government: An essay concerning the True, Original, Extent and End of Civil Government', in Laslett, P. (Ed.) p366-7 *John Locke, Two Treatises of Government* (Cambridge: CUP, 1988)

[63] Parry, G. p130 'Trust, Distrust and Consensus' in *British Journal of Political Science* Vol. 6 (1976): 129-142

[64] Canovan, M. p104 *The People* (Cambridge: Polity, 2005)

[65] Sennett, R. p89 *The Fall of Public Man* (London and Boston: Faber and Faber, 1977)

[66] On Locke's account God has promulgated laws, through both reason and revelation that prescribe measures conducing to certain ends. This broader theistic framework is central to his account of natural law, in particular for its being morally binding *and* having motivational content. The

obligatory or binding force of natural law then derives from its being commanded by God. This broader theistic framework is central since, "no derivation of morality could, without God's will, move us beyond what is merely rational to what is obligatory." Simmons, A. J p37 *The Lockean Theory of Rights* (Princeton: Princeton University Press, 1992)

[67] Den Uyl, J. & Rasmussen, B. 'Ethical Individualism, Natural Law and the Primacy of Natural Rights' in E.F. Paul, F. D. Miller & J. Paul (Eds.) *Natural law and modern moral philosophy* (Cambridge: Cambridge University Press, 2001): 34-69.

[68] Cahoone, L. p33 *Civil Society: The Conservative Meaning of Liberal Politics* (Oxford: Blackwell, 2002)

[69] Williams, M. p32 *Voice, Trust and Memory: Marginalized Groups and the Failings of Liberal Representation* (Princeton, New Jersey: Princeton University Press, 1998)

[70] Parry, G. 'Trust, Distrust and Consensus' in *British Journal of Political Science* Vol. 6 (1976): 129-142: Festenstein, M. pp138-144 *Negotiating Diversity: Culture, Deliberation, Trust* (Cambridge: Polity, 2005)

[71] Parry, G. p132 'Trust, Distrust and Consensus' in *British Journal of Political Science* Vol. 6 (1976): 129-142

[72] Festenstein, M. p138 *Negotiating Diversity: Culture, Deliberation, Trust* (Cambridge: Polity, 2005)

[73] Parry, G. p140 'Trust, Distrust and Consensus' in *British Journal of Political Science* Vol. 6 (1976): 129-142

[74] Barnard, F. M p83 *Self-Direction and Political Legitimacy: Rousseau and Herder* (Oxford: Clarendon Press, 1988)

[75] Rousseau, J.J. p181 *The Social Contract,* Translated and introduced by G.D.H Cole (London: Everyman, 1993); Connolly, W. p43 *Political Theory and Modernity* (Oxford: Basil Blackwell, 1988)

[76] Rousseau, J.J. p182 *The Social Contract* Translated and introduced by G.D.H Cole (London: Everyman, 1993)

[77] Merquior, J.G p11 *Rousseau and Weber: Two studies in the theory of legitimacy* (London: Routledge and Kegan Paul: 1980)

[78] Kant, I. p59 & 63 'An answer to the Question: What is Enlightenment?' Translated by James Schmidt in *What is Enlightenment: Eighteenth-Century Answers and Twentieth Century Questions* Edited by James Schmidt (Berkeley: University of California Press, 1996): 58-64

[79] Rousseau, J.J pp97-98 *Discourse on the Origin of Inequality* Translated by G.D.H Cole (London: Everyman, 1993) Complementing Rousseau's argument on the irrationality of existing property rights is his claim that a society deeply divided by extremes of wealth and poverty cannot be a stable basis for political community. This idea has had important currency in republican political thought. In *Emile* Rousseau argues that in the 'state of nature' it is impossible that the differences between men be so great so that any is dependent on another, but in the civil state, this equilibrium is destroyed and from this contradiction spring all of the other contradictions between the real and apparent, which blight social life and militate against the realisation of the public good. Rousseau, J.J p198 *Émile* Translated by Barbara Foxley (London: Dent, 1969): More recently, Ronald Tercheck has interpreted republicans egalitarian commitments, including Rousseau's strong support for a 'one class society' in terms of 'stakes' where this notion includes private property. He notes, "At one level, simply being kept alive can count as a stake as Hobbes thought, but this is clearly an inadequate support for government that depends on continued citizen support. It furnishes little incentive to *care* about the republic or invest ones time and *identity* in it." (Emphasis added). Tercheck, R.J. p48-49 *Republican Paradoxes and Liberal Anxieties, Retrieving Neglected Fragments of Political Theory.* (London: Rowman & Littlefield Publishers, 1997)

[80] Rousseau, J.J. p190 *The Social Contract,* Translated and introduced by G. D. H. Cole (London: Everyman, 1993)

[81] Rousseau, J.J. p107 *A Discourse on the Origin of Inequality* ,Translated and introduced by G. D. H. Cole (London: Everyman, 1993)

[82] For criticisms of Rousseau in this vein see, Arendt, H. *On Revolution* (Penguin: London and New York, 1990): Connolly, W. *Political Theory and Modernity* (Oxford: Basil Blackwell, 1988) Steinberg, J. *Locke, Rousseau and the Idea of Consent: An enquiry into the Liberal Democratic Theory of Political Obligation* (Connecticut: Greenwood Press, 1978)

[83] Rosenfeld, M. p.4 *Constitutionalism, Identity, Difference, and Legitimacy* (Durham, Duke University Press, 1994)

[84] Kalyvas, A. p225 'Popular Sovereignty, Democracy, and the Constituent Power' in *Constellations* Vol. 12, No.2, 2005: 223-244

[85] Castiglione, D. p434 'The Political Theory of the Constitution' in *Political Studies* XLIV 1996: 417-435: Holmes, S. p6 *Passions and Constraint* (Chicago: University of Chicago Press, 1995)

[86] Kalyvas, A. p.227 'Popular Sovereignty, Democracy, and the Constituent Power' in *Constellations* Vol. 12, No.2, 2005: 223-144

[87] Arendt, H. pp44-52 *On Violence,* (New York: Harcourt, Brace and World, 1970).

[88] *Ibid.* p44

[89] *Ibid.* p41

[90] On the basis of her admiration of Ancient Greek political thought, Arendt has often been interpreted as a nostalgic and anti-modernist political philosopher whose insights are of limited significance for contemporary politics. Isaiah Berlin professes that "[he does] not greatly respect the lady's ideas" on precisely this basis in Jahanbegloo, R. (ed.) pp82-83 *Conversations with Isaiah Berlin* (London: Peter Halban, 1992): Berlin's views are cited and in Benhabib, S. pxxxvii. *The Reluctant Modernism of Hannah Arendt* (London & New Delhi: Sage, 1996), though Benhabib rejects this interpretation. Blair Campbell discusses the 'myth' of the Greek participatory model in Arendt's thought and her 'distortion' of the Athenian experience from a historical perspective. Campbell, B. 'Paradigms Lost:--Classical Athenian Politics and Modern Myth, *History of Political Thought,* Vol.10, No.2 (Summer 1989). Noël O'Sullivan discusses Arendt's 'nostalgia' for Ancient Greek political thought and the difficulty in removing the concepts it provides from "the confines of the small city-states of the ancient world out of which they arise". O'Sullivan, N. 'Hellenic Nostalgian and Industrial Society' in (ed.) Crespigny, A. and Minogue, K. *Contemporary Political Philosophers* (London: Methuen, 1976)

[91] Pitkin, H. p340 'Representation and Democracy: Uneasy Alliance' in *Scandinavian Political Studies,* Vol. 27, No.3 (2004): 335-342

[92] For examples of elitist theories of democracy see Freidrich, C. J. *Constitutional Government and Democracy* (New York: Ginn and Co., 1950) and Schumpeter, J. *Capitalism, Socialism and Democracy* (London: Allen and Unwin, 1983)

[93] Arendt, H. p9 & p178 *The Human Condition* (Chicago and London: University of Chicago Press, 1998).

[94] *Ibid.* p184

[95] Dossa, S. p82. *The Public Realm and the Public Self: The Political Theory of Hannah Arendt* (Ontario, CA: Wilfred Laurier University Press, 1989)

[96] Arendt, H. p93 *Crises in the Republic* (New York: Harcourt Brace Jovanovich inc, 1972)

[97] Villa, D. p118 *Politics, Philosophy, Terror: Essays in the thought of Hannah Arendt* (Princeton, New Jersey: Princeton University Press, 1999)

[98] Kalyvas, A. p 230 'Popular Sovereignty, Democracy and the Constituent Power' in *Constellations,* Vol. 12, No. 2 (2005): 223-244

[99] Villa, D. p190 'Hannah Arendt: Modernity Alienation, and Critique' in Calhoune, C. & McGowan, J. (Ed.) *Hannah Arendt and the Meaning of Politics* (London: University of Minnesota Press, 1997): 179-206.

[100] Zaretsky, E. p227 'Arendt and the Public/Private Distinction' in Calhoune, C. & McGowan, J. (eds.) *Hannah Arendt and the Meaning of Politics* (London: University of Minnesota Press, 1997): 207-231

[101] Warren, M. p12 'Democratic Theory and Self-Transformation' in *American Political Science Review* Vol. 86, No. 1 (March 1992): 8-23

[102] *Ibid.* p8

[103] Bellamy, R. 'Dealing with Difference: Four Models of Pluralist Politics' *Parliamentary Affairs*, (2000) vol.53, no.1: 198-217. O'Sullivan, N. 'Difference and the Concept of the Political in Contemporary Political Philosophy' *Political Studies* XLV (1997): 739-754

[104] Mill, J. S p13-14 'On Liberty' p5-130, Gray, J. (Ed.) *John Stuart Mill: On Liberty and Other Essays* (Oxford: Oxford University Press, 1991)

[105] In *On Liberty,* for example, Mill writes, "the unlikeness of one person to another is generally the first thing which draws the attention of either to the imperfection of his own type, and the superiority of another, or the possibility, by combining the advantages of both of producing something better than either." Mill, J.S p79 'On Liberty' in Gray, J. (E.d.) *John Stuart Mill: On Liberty and Other Essays* (Oxford: OUP, 1991)

[106] Rawls, J. *A Theory of Justice* (Oxford University Press: London, 1971): Rawls, J. *Political Liberalism* (New York: Columbia University Press, 1993): Barry, B. *Culture and Equality* (Cambridge: Polity Press, 2001): Macedo, S. 'Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls' in *Ethics* 105 (April 1995): 468-496: Holmes, S. 'Gag Rules and the Politics of

Omission' in Elster, J. and Slagstad, R. *Constitutionalism and Democracy* (Cambridge: Cambridge University Press, 1988)

[107] Kymlicka shares this concern to protect the integrity of cultural groups from assimilation with other political theorists such as Charles Taylor, Bhikhu Parekh and James Tully. However on Kymlicka's approach, identity related differences come to have political significance in view of their relationship with existing political and institutional complexes that they occupy: they do not in themselves have an independent normative and political status. This is in contrast to the theorists mentioned above all of whom invests identity related differences with crucial political import on the basis that they are expressive of different, and incommensurable 'ways of life'. Parekh, B. *Rethinking Multiculturalism* (London: MacMillan Press, 2000): Taylor C. '*Multiculturalism and 'the Politics of Recognition' Multiculturalism: Examining 'the Politics of Recognition',* ed. Amy Gutmann (Princeton: Princeton University Press, 1994) Tully, J. Strange Multiplicity, Constitutionalism in an Age of Diversity (Cambridge: Cambridge University Press, 1995)

[108] Jung, C. p219 'The Burden of Culture and the Limits of Liberal Responsibility' in *Constellations* Vol. 8, No. 2 (2001): 219-235

[109] Macedo, p41 *Liberal Virtues: Citizenship, Virtue and Community in Liberal Constitutionalism* (Oxford: Clarendon Press, 1990) and Rawls, J. p771. 'The idea of Public Reason Revisited' *The University of Chicago Law Review* Vol. 64, No. 3. (Summer 1997): 765-807

[110] Rawls, J. pxxvi *Political Liberalism* (New York: Columbia University Press, 1993)

[111] *Ibid.*. pxxiv

[112] *Ibid.*. p217

[113] *Ibid.* p72

[114] Rawls, J. 'The idea of Public Reason Revisited' *The University of Chicago Law Review* Vol. 64, No. 3 (Summer 1997):765-807, Rawls, J. *Political Liberalism* (New York: Columbia University Press, 1993): Gutmann, A. and Thompson, D. *Democracy and Disagreement* (Cambridge, MA. & London, England: The Belknap Press of Harvard University Press, 1996): Cohen, J. 'Procedure and Substance in Deliberative Democracy' in Benhabib, S. (Ed). *Democracy and Difference* (Princeton, New Jersey: Princeton University Press, 1996)

[115] Rawls, J. pxxv *Political Liberalism* (New York: Columbia University Press, 1993)

[116] *Ibid* p13, p175

[117] *Ibid* p3-4

[118] *Ibid* p226

[119] Rawls, J. p766 'The idea of Public Reason Revisited' *The University of Chicago Law Review* Vol. 64, No. 3 (Summer 1997): 765-807

[120] Rawls, J. p156 *Political Liberalism* (New York: Columbia University Press, 1993): Rawls, J. p767 'The idea of Public Reason Revisited' *The University of Chicago Law Review* Vol. 64, No. 3 (Summer 1997): 765-807, Courtney Jung, cites an unpublished paper by Stephen Macedo in which he also distinguishes between applications of public reason to normal politics and constitutional principles. See Jung, C. p222-223 'The Burden of Culture and the Limits of Liberal Responsibility' in *Constellations* Vol. 8, No. 2 (2001): 219-235

[121] Rawls, J. p767n7 'The idea of Public Reason Revisited' *The University of Chicago Law Review* Vol. 64, No. 3 (Summer 1997): 765-807

[122] Macedo, S. P477n41 'Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls' in *Ethics* 105 (April 1995): 468-496

[123] See Young, I. p105 *Justice and the Politics of Difference* (Princeton, New Jersey: Princeton University Press, 1990)

[124] Bellamy, R. p201 'Dealing with Difference: Four Models of Pluralist Politics' *Parliamentary Affairs* , Vol.53, no.1 (2000): 198-217

[125] Rawls, J. p231 *Political Liberalism* (New York: Columbia University Press, 1993)

[126] Williams, M. p68 'Justice Toward Groups: Political Not Juridical' in *Political Theory,* Vol.23, No.1. (February 1995): 67-91

[127] Rawls imagines that criterion of public reason can be decided upon by parties within the original position. The original position is the thought-experiment that Rawls uses in his earlier work *The Theory of Justice* to mark out a standpoint from which impartial acceptable-to-all procedures can be arrived at. It is from this perspective that the principles of justice which are to govern the basic structure of society are derived. The parties in the original position, in adopting principles of justice for the basic structure aim to secure the interests of the persons they represent. In his

later work *Political Liberalism* Rawls imagines that the parties in the Original Position will also insist that criteria of public reason be similarly specified. He writes, "the parties insist that the application of substantive principles be guided by judgement and inference, reasons and evidence that the persons they represent can reasonably be expected to endorse. Should the parties fail to do this, they would not act responsibly as trustees." Rawls, J. p225 *Political Liberalism* (New York: Columbia University Press, 1993)

[128] For example Rawls *Political Liberalism* (New York: Columbia University Press, 1993) and Dworkin, R. M *Taking rights seriously* (London: Duckworth, 1977) Compare Van Den Brink, B. p185 *The Tragedy of Liberalism: An Alternative Defense of a Political Tradition* (Albany: State University of New York Press, 2000)

[129] This is clearly an issue for those countries struggling to find fair terms of accommodation for indigenous populations, though the same considerations may apply to women or to historically marginalised racial, ethnic or religious groups.

[130] Galeotti, A. E. p59 *Toleration as Recognition* (Cambridge: Cambridge University Press, 2002)

[131] Galeotti, A. E. p223 'Contemporary Pluralism and Toleration' in *Ratio Juris* Vol. 10 No. 2 June 1997 (223-35)

[132] Galeotti, A. E. p8 *Toleration as Recognition* (Cambridge: Cambridge University Press, 2002) For similar perspectives see, Fraser, N. 'Recognition without Ethics' in *Theory, Culture and Society* Vol. 18 (1995): 21-42 and Philips, A. *The Politics of Presence* (Clarendon Press: Oxford, 1995)

[133] Rawls, J. p457 *Political Liberalism* (New York: Columbia University Press: 1993) Quoted in Archard, D. p155 'Nationalism and political theory' in O'Sullivan N. (Ed) *Political Theory in Transition* (London and New York: Routledge, 2000): 155-171

[134] Canovan, M. *Nationhood and Political Theory* (Cheltenham: Edward Elgar, 1996): Archard, D. 'Nationalism and political theory' in O'Sullivan N. (Ed) *Political Theory in Transition* (London and New York: Routledge, 2000) pp155-171: Archard, D. 'Political philosophy and the concept of the nation' in *Journal of Value Inquiry* Vol. 29 (1995)*:* 379-392

[135] Parekh, B. 'Superior People: The Narrowness of liberalism from Mill to Rawls' *Times Literary Supplement* (25th February 1994): 11-13

[136] Miller, D. p46 *Citizenship and National Identity* (Cambridge: Polity, 2000)

[137] Kymlicka, W. p21 *Liberalism, Community and Culture* (Oxford: Clarendon Press, 1989)

[138] Kymlicka, W. p165 *Liberalism Community and Culture* (Oxford: Clarendon Press, 1989)

[139] Kymlicka, W. p111 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995) Kymlicka, W. p25 *Politics in the Vernacular* (Oxford: Oxford University Press, 2001)

[140] Gilbert, P. p37 *Peoples, Cultures and Nations in Political Philosophy* (Edinburgh: Edinburgh University Press, 2000)

[141] Kymlicka, W. p83-84 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995)

[142] *Ibid.* p80

[143] *Ibid.* p63

[144] *Ibid.* p31

[145] I concur with Kymlicka's assertion that a comprehensive theory of group representation will need to be issue-specific and institution specific. Kymlicka, W. p228 FN 17 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995)

[146] Kymlicka, W. p26 *Politics in the Vernacular* (Oxford: Oxford University Press, 2001)

[147] Kymlicka, W. p93 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995)

[148] Kymlicka, W. p229-234 *Politics in the Vernacular* (Oxford: Oxford University Press, 2001)

[149] Van Den Brink, B. p212 *The Tragedy of Liberalism: An Alternative Defence of a Political Tradition* (Albany: State University of New York Press, 2000)

[150] Kymlicka, W. p96 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995)

[151] Kymlicka, W. p22 *Politics in the Vernacular* (Oxford: Oxford University Press, 2001): Kymlicka, W. p35-37 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995) and p167 *Liberalism, Community and Culture* (Oxford: Clarendon Press, 1989)

[152] Kymlicka, W. p94. *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995)

[153] *Ibid.* p94.

[154] In March 2005 proposed legislation against incitements to religious hatred was introduced to the British Parliament, while in May of the same year the Workplace Religious Freedom Act came before the American Congress. The broad aims of both pieces of legislation is to protect religious groups from denigration in public life.

[155] Kymlicka acknowledges that 'internal restrictions' can be an unfortunate by-product of measures that are intended as 'external protections'

[156] http://www.homeoffice.gov.uk/comrace/faith/crime/index.html

[157] See for example Rushdie's argument in an article published in the *The Guardian* (March 14th 2004)

[158] Kymlicka, W. p163 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995)

[159] *Ibid.* p223 FN.15

[160] Sypnowich, C. p535 'The Culture of Citizenship' in *Politics and Society,* Vol. 28, No. 4 (December 2000): 531-555.

[161] Carens, J. H. p69 *Culture, Citizenship and Community; A Contextual Exploration of Justice as Evenhandedness* (Oxford: Oxford University Press, 2000)

[162] Gilbert, P. pp37-38 *Peoples, Cultures and Nations in Political Philosophy* (Edinburgh: Edinburgh University Press, 2000)

[163] Edward Rothstein 'Museum Review: Museum with an American Indian Voice' *New York Times* (Tuesday September 21st 2004)

[164] Edward Rothstein 'Museum Review: Museum with an American Indian Voice' *New York Times* (Tuesday September 2004)

[165] Edward Rothstein 'Museum Review: Museum with an American Indian Voice' *New York Times* (Tuesday September 21st 2004)

[166] Kymlicka, W. p82 *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995)

[167] Sypnowich, C. 'The Culture of Citizenship' in *Politics and Society,* Vol. 28, No. 4 (December 2000): 531-555

[168] Jung, C. p220-221 'The Burden of Culture and the Limits of Liberal Responsibility' in *Constellations* Vol. 8, No. 2 (2001): 219-235

[169]I think that this criticism could equally well be levelled at those such as Bhikhu Parekh and James Tully who often come close to conflating identity related pluralism and value pluralism. Both suggest that cultural pluralism represents a challenge to the constitutional state that is in a different order from more familiar forms of moral, religious and social diversity, but each invest identity related differences with crucial political import on the basis that they are expressive of different, and incommensurable 'ways of life'. In so doing, Tully and Parekh not only rely upon a contestable idea about the nature of cultural difference, they also assimilate new forms of identity related diversity with the already familiar philosophical doctrine of value pluralism. This approach cannot take seriously the novelty or the diversity of new forms of social difference. Tully, J. *Strange Multiplicity- Constitutionalism in an age of diversity* (Cambridge MA: Cambridge University Press, 1995): Parekh, B. *Rethinking Multiculturalism* (London: MacMillan Press, 2000).
Often the idea of value pluralism is used as a way of explaining the normative significance of identity on this approach. The philosophical conception of value pluralism is often presented in contrastive terms with monism as a thesis about the ultimate nature of value. It holds that objective value is ultimately not of a single kind but of many kinds. Value pluralism makes a misnomer of the idea that plural goods may be brought to co-exist in some ideal unity. Since goods are multiple and cannot be combined without loss, the idea of an ultimate harmony between goods is illusory in conceptual terms, and its pursuit as a political goal is potentially perilous [Lamore, C. p154 & 164 *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996)] Isaiah Berlin and Joseph Raz also develop their accounts of value pluralism in contrastive terms with monism [Berlin I. p67-68 'The Originality of Machiavelli' in *Against the Current: Essays in the History of Ideas* (London: Hogarth Press, 1979) Raz, J. 'Multiculturalism: A Liberal Perspective' in *Ethics in the Public Domain* (Oxford: Clarendon, 1994) see chapter 7 pp155-176] Perhaps because Berlin finds the inspiration for this idea in the work of Romantics such as Vico and Herder who understood different cultures as representing different ways of life which were ultimately uncombinable, a tendency has developed to conflate value pluralism and cultural pluralism, that is to assume that different cultures embody uncombinable and incommensurable values, meaning that no rational measure can be used to adjudicate between them. I think that this is too controversial and contestable a conception of culture to serve as the starting point for a multicultural political theory.

Chapter Two

[1] Taylor, C. *Modern Social Imaginaries* (Durham & London: Duke University Press, 2004)

[2] Taylor, C. px *Sources of the Self* (Cambridge: Cambridge University Press, 1989)

[3] *Ibid.* px

[4] Taylor, C. 'Inwardness and the Culture of Modernity' in *Philosophical Interventions in the Unfinished Project of Modernity* (eds.) Axel Honneth, Thomas McCarthy, Claus Offe and Albrecht Wellmer. Translations by William Rehg (Cambridge, Massachusetts: MIT press, 1992): 88-110

[5] *Ibid.* p88

[6] *Ibid.* p88

[7] Shklar, J. 'Review of *Sources of the Self'* in *Political Theory* 19/1 (1991): 105-9

[8] Taylor, C. p2 *Philosophical Papers Vol. 2 'Philosophy and the Human Sciences'* (Cambridge: Cambridge University Press, 1985)

[9] Compare Tully, J. p 550 'Political Philosophy as a Critical Activity' in *Political Theory.* Vol. 30. No. 4, (August 2002): 533-555

[10] Taylor, C. p89 'Inwardness and the Culture of Modernity' *Philosophical Interventions in the Unfinished Project of Modernity* (eds.) Axel Honneth, Thomas McCarthy, Claus Offe and Albrecht Wellmer. Translations by William Rehg (Cambridge, Massachusetts: MIT press, 1992): 88-110

[11] *Ibid.* p89

[12] Taylor, C. p26 "Two Theories of Modernity" *Hastings Center Report* (March- April 1995): 24 Quoted in Redhead, M. p177 *Charles Taylor: Thinking and Living Deep Diversity* (New York and Oxford: Rowman & Littlefield Publishers, Inc, 2002)

[13] Rayner, J p145 'Therapy for an imaginary invalid: Charles Taylor and the malaise of modernity' in *History of the Human Sciences* Vol 5. No. 3 (1992): 145-155

[14] Taylor, C. p55 'The Modern Identity' in Daly, M. (ed) *Communitarianism: A New Public Ethics* (Belmont, California: Wadsworth Publishing Company, 1994) 55-71 compare Taylor C. p25 "Philosophy and its History" in *Philosophy and its History,* Edited by R. Rorty, J. B. Schneewind and Q. Skinner (Cambridge: Cambridge University Press, 1984)

[15] Taylor, C. p55-56 ' The Modern Identity' in Daly, M. (ed) *Communitarianism: A New Public Ethics* (Belmont, California: Wadsworth Publishing Company, 1994): 55-71

[16] *Ibid.* p57

[17] Taylor, C. p96 'Rationality' in Martin Hollis and Stephen Lukes *Rationality and Relativism* (Oxford: Basil Blackwell, 1982) pp87-105: and Taylor, C. p149 *Sources of the Self* (Cambridge: Cambridge University Press, 1989)

[18] Taylor C. p149 *Sources of the Self* (Cambridge: Cambridge University Press, 1989): Taylor, C. p50 *Modern Social Imaginaries* (Durham & London: Duke University Press, 2004)

[19] Taylor, C. p4 *Philosophical Papers Vol. 2 'Philosophy and the Human Sciences'* (Cambridge: Cambridge University Press, 1985)

[20] Taylor, C. p207 'Reply to Commentators' in *Philosophy and Phenomenological Research* Volume 54, Issue 1 (March 1994): 203-213

[21] Taylor, C. p304 'The Dialogical Self' in *The Interpretive Turn: Philosophy, Science, Culture* Edited by David R. Hiley, James F. Bohman, and Richard Shusterman (Ithaca and London: Cornell University Press, 1991)

[22] Taylor suggests that Hegel's conception of the subject was fundamentally an expressivist one tied to an expressivist view of language prefigured by Herder. He presents Hegel as responding to the basic dilemma of how to reconcile radical freedom and expressive fullness, that is, how to situate freedom. This requires getting beyond the self as the subject of a self-dependent will and bringing to light its insertion in nature. See Taylor, C. *Hegel and Modern Society* (Cambridge: C.U.P, 1979)

[23] Gutting, G. p119 *Pragmatic Liberalism and the Critique of Modernity* (Cambridge: Cambridge University Press, 1999)

[24] Taylor, C. p304-5 'The Dialogical Self' in *The Interpretive Turn: Philosophy, Science, Culture* Edited by David R. Hiley, James F. Bohman, and Richard Shusterman (Ithaca and London: Cornell University Press, 1991)

[25] Taylor, C. p34 *Philosophical Arguments* (Cambridge, Mass: Harvard University Press, 1995)

[26] Taylor, C. *The Listener* (March 20, 1986)

[27] Taylor, C. p137 *Hegel and Modern Society* (Cambridge: C.U.P, 1979)

[28] *Ibid.* p138

[29] Taylor, C. 278 'Taylor and Foucault on Power and Freedom: A Reply' in *Political Studies* XXXVII (1989): 277-281

[30] Taylor, C. p414 *Sources of the Self* (Cambridge: Cambridge University Press, 1989) and Taylor, C. p52 'Nationalism and Modernity' in *The Morality of Nationalism* Edited by Robert McKim and Jeff McMahan (New York & Oxford: Oxford University Press, 1997): 31- 55

[31] Taylor, C. p40 ' Nationalism and Modernity' in *The Morality of Nationalism* Edited by Robert McKim and Jeff McMahan (New York & Oxford: Oxford University Press, 1997): 31- 55

[32] Taylor, C. p305 'The Dialogical Self' in *The Interpretive Turn: Philosophy, Science, Culture* Edited by David R. Hiley, James F. Bohman, and Richard Shusterman (Ithaca and London: Cornell University Press, 1991)

[33] Taylor, P39 *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995)

[34] White, S. p44 *Sustaining Affirmation: The Strengths of Weak Ontology in Political Theory* (Princeton and Oxford: Princeton University Press, 2000)

[35] Taylor p320 'Engaged agency and background in Heidegger' in *The Cambridge Companion to Heidegger* (ed.) Charles B. Guignon. (Cambridge: Cambridge University Press: 1993): 317-336, Taylor, C. p67 *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995)

[36] Taylor, C. p3-4 *Philosophy and the Human Sciences; Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[37] Taylor, C. p305 'The Dialogical Self' in *The Interpretive Turn: Philosophy, Science, Culture* (Edited by David R. Hiley, James F. Bohman, and Richard Schusterman' (Ithaca and London: Cornell University Press, 1991) pp304-314

[38] Taylor, C. p26 *Philosophy and the Human Sciences; Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[39] Taylor, C. p45-46 *Human Agency and Language: Philosophical Papers 1* (Cambridge: Cambridge University Press, 1985)

[40] Taylor, C. p68 *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995)

[41] Heidegger, M. p89 *Being and Time* (Oxford, UK & Cambridge, USA: Blackwell, 2000)

[42] Taylor p317 'Engaged agency and background in Heidegger' in *The Cambridge Companion to Heidegger* Edited by Charles B. Guignon. (Cambridge: Cambridge University Press, 1993): 317-336

[43] *Ibid.* p325

[44] Here Taylor is also influenced also by Michael Polanyi's characterisation of background as the connections which we attend from, in order to attend to what is focal for us. See Michael Polanyi *The Tacit Dimension* (Garden City: Doubleday, 1966).

[45] Taylor, C. p328 'Engaged agency and background in Heidegger' in *The Cambridge Companion to Heidegger* Edited by Charles B. Guignon. (Cambridge: Cambridge University Press, 1993):317-336 Taylor C. p8 *Sources of the Self* (Cambridge: Cambridge University Press, 1989)

[46] Taylor, C. *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995): 61- 78

[47] Wittgenstein, L. (Para 129, 50) *Philosophical Investigations* (New York: Macmillan, 1968)

[48] Taylor, C. p70 *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995)

[49] Taylor, C. p23 *Philosophy and the Human Sciences; Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[50] *Ibid.* pp23-24

[51] *Ibid.* pp24-26

[52] Taylor, C p70 *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995)

[53] *Ibid.* p70

[54] Abbey, R. p34 *Charles Taylor* (Tedington: Acumen, 2000)

[55] Taylor, C. p15-16 *Human Agency and Language* (Cambridge: Cambridge University Press, 1985)

[56] see Taylor, C. p208 'Reply to Commentators' in *Philosophy and Phenomenological Research* Vol. LIV, No. 1, (March 1994): 203-213 & Taylor, C. p43 *Human Agency and Language* (Cambridge: Cambridge University Press, 1985)

[57] Taylor, C. p26 *Human Agency and Language* (Cambridge: Cambridge University Press, 1985)

[58] *Ibid.* p34

[59] Taylor, C. p306 'The Dialogical Self' in *The Interpretive Turn: Philosophy, Science, Culture* (eds.) David R. Hiley, James F. Bohman, and Richard Shusterman (Ithaca and London: Cornell University Press, 1991)

[60] See Arendt, *The Human Condition The Human Condition* (Chicago & London: University of Chicago Press, 1998)

[61] Compare Taylor, C. p176 "Leading a Life" in *Incommensurability, Incomparability and Practical Reasoning* Edited by Ruth Chang (Cambridge, Mass & London, England: Harvard University Press, 1997): 170-183. Here Taylor disputes the idea that systematic priority can be given to questions of justice over questions of about the good and worthwhile life. He writes: 'By systematic priority, I mean one that says, Answer all the demands that belong to domain *A* (say justice, or benevolence) before you move to satisfy any demand of domain *B* (say, personal fulfilment).'

[62] This bears a close resemblance with the account presented by Leo Strauss. E.g. "Through a shift in emphasis from natural duties or obligations to natural rights, the individual, the ego, had become the center of origin of the moral world, since man –as distinct from man's end –had become that center or origin." Strauss, L. p34 *Natural Right and History* (Chicago: University of Chicago Press, 1953)

[63] Compare A. P D'Entrèves *Natural Law and Introduction to Legal Philosophy* (London: Hutchinson, 1951). D'Entrèves argues that although the natural rights perspective differs from that of natural law, it is nevertheless continuous in its basic elements and prohibitions. What emerges with the natural rights tradition is that the emphasis shifts from what 'is' right to what an individual has a right to.

[64] Hittinger, R. p115 'Critical Study: Charles Taylor, *Sources of the Self'* in *Review of Metaphysics* 44 (September 1990): 111-130.

[65] Taylor, C. p12 *Sources of the Self* (Cambridge: Cambridge University Press, 1989): Compare '*Multiculturalism and 'the Politics of Recognition' Multiculturalism: Examining 'the Politics of Recognition',* ed. Amy Gutmann (Princeton: Princeton University Press, 1994). First published as *Multiculturalism and 'the Politics of Recognition'* (Princeton: Princeton University Press, 1992) **Henceforth abbreviated as PR**

[66] White, S. K. p45 *Sustaining Affirmation: The Strengths of Weak Ontology in Political Theory* (Princeton and Oxford: Princeton University Press, 2000)

[67] Taylor, C. xii *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995) Taylor, C. p93 'Inwardness and the Culture of Modernity' in *Philosophical Interventions in the Unfinished Project of Modernity* (eds.) Axel Honneth, Thomas McCarthy, Claus Offe and Albrecht Wellmer. Translations by William Rehg (Cambridge, Massachusetts: MIT press, 1992): 88-110

[68] Taylor, C. "Rationality" in *Rationality and Relativism,* Edited by M. Hollis and S. Lukes (Cambridge: MIT Press, 1982): 87-105, "Philosophy and its History" in *Philosophy and its History,* Edited by R. Rorty, J. B. Schneewind and Q. Skinner (Cambridge: Cambridge University Press, 1984) p 17-30; "Leading a Life" in *Incommensurability, Incomparability and Practical Reasoning* Edited by Ruth Chang (Cambridge, Mass & London, England: Harvard University Press, 1997): 170-183.

[69] Smith, N. H. p61 *Strong hermeneutics: Contingency and Moral Identity* (London & New York: Routledge, 1997)

[70] Taylor, C. pp176-177 'Leading a Life' in Chang, R. (Ed.) *Incommensurability, Incomparability and Practical Reasoning* (Cambridge, Massachusetts & London, England: Harvard University Press, 1997): 170-183

[71] *Ibid.* p177

[72] Taylor, C. p208 'Reply to Commentators' in *Philosophy and Phenomenological Research* Vol. LIV, No. 1, March 1994: 203-213 Compare also Taylor, C. p58. *Sources of the Self* (Cambridge: Cambridge University Press, 1989)

[73] Abbey, R. p29 *Charles Taylor* (Tedington: Acumen, 2000)

[74] Taylor, C. p173 'Leading a Life' in Chang, R. (Ed.) *Incommensurability, Incomparability and Practical Reasoning* (Cambridge, Massachusetts & London, England: Harvard University Press, 1997): 170-183

[75] *Ibid.* p173

[76] Taylor, C p18 *The Ethics of Authenticity* (Cambridge: Harvard University Press, 1992)

[77] Taylor, C. p238 *Philosophical Papers Vol. 2 'Philosophy and the Human Sciences'* (Cambridge: Cambridge University Press, 1985)

[78] Taylor, C. p203-204 'Reply to Commentators' in *Philosophy and Phenomenological Research* Volume 54, Issue 1 (March 1994): 203-213

[79] Taylor, C. pp170 'Leading a Life' in Chang, R. (ed.) *Incommensurability, Incomparability and Practical Reasoning* (Cambridge, Massachusetts & London, England: Harvard University Press, 1997): 170-183

[80] Calhoune, C. 'Morality Identity, and Historical Explanation: Charles Taylor on the Sources of the Self' in *Sociological Theory* 9:2, (Fall 1991): 232- 263

[81] Taylor, C. p21 'Philosophy and its History' in *Philosophy in History: Essays on the historiography of philosophy* Edited by Richard Rorty, J. B Schneewind and Quentin Skinner

[82] *Ibid.* p17

[83] Taylor, C. p124 *Philosophy and the Human Sciences; Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[84] Taylor, C. p162 *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995)

[85] Taylor, C. p21 'Philosophy and its History' in *Philosophy in History: Essays on the historiography of philosophy* (eds.) by Richard Rorty, J. B Schneewind and Quentin Skinner

[86] *Ibid. p*21

[87] *Ibid*. p20

[88] *ibid.* p20

[89] Taylor, C. p28. 'Philosophy and its History' in *Philosophy in History: Essays on the historiography of philosophy* (eds.) by Richard Rorty, J. B Schneewind and Quentin Skinner and Taylor, C. p2 *Philosophical Arguments* (Cambridge, Mass & London, England: Harvard University Press, 1995)

[90] Taylor, C. pp1-2 *Philosophical Arguments* (Cambridge, Mass & London, England: Harvard University Press, 1995)

[91] *Ibid*. p2

[92] Calhoune, C. p240 'Morality Identity, and Historical Explanation: Charles Taylor on the Sources of the Self' in *Sociological Theory* 9:2, (Fall 1991): 232- 263

[93] Taylor, C. pp178 'Leading a Life' in Chang, R. (Ed.) *Incommensurability, Incomparability and Practical Reasoning* (Cambridge, Massachusetts & London, England: Harvard University Press, 1997): 170-183

[94] Taylor, C. p238 *Philosophy and the Human Sciences; Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[95] Taylor, C. p247 'Reply and Rearticulation' in Tully, J. and Weinstock, D. M (Ed.) *Philosophy in an age of pluralism: The philosophy of Charles Taylor in question* (Cambridge: Cambridge University Press, 1994)

[96] Taylor, C. p35 *Philosophical Arguments* (Cambridge, Mass: Harvard University Press, 1995)

[97] Taylor, C. p126 *Philosophical Papers Vol. 2 'Philosophy and the Human Sciences'* (Cambridge: Cambridge University Press, 1985)

[98] *Ibid*. p125

[99] White, S. K. p45 *The Strengths of Weak Ontology in Political Theory* (Princeton & Oxford: Princeton University Press, 2000)

[100] Here Taylor cites Iris Murdoch. Murdoch, I *The Sovereignty of Good* (London: Routledge, 1970)

[101] Kymlicka, W. p168 'The Ethics of Inarticularity' in *Inquiry,* 34 (1991): 155-82

[102] *Ibid.* p168

[103] Redhead, M. p189 *Charles Taylor: Thinking and Living Deep Diversity* (New York and Oxford: Rowman & Littlefield Publishers, Inc, 2002)

[104] Lamore, C. p161 'Review of Sources of the Self' in *Ethics* (October 1991): 158-162

[105] Taylor, C. PR p70

[106] Readhead, M. p199 *Charles Taylor: Thinking and Living Deep Diversity* (New York and Oxford: Rowman & Littlefield Publishers, Inc, 2002): Readhead, M. p810 'Making the Past Useful for a Pluralistic Present: Taylor, Arendt, and a Problem for Historical Reasoning' in *American Journal of Political Science* Vol. 46, No. 4 (October 2002): 803-818

[107] Taylor, C. p27 'Philosophy and its History' in *Philosophy in History: Essays on the historiography of philosophy* (eds.) Richard Rorty, J. B Schneewind and Quentin Skinner (Cambridge: Cambridge University Press, 1984)

[108] *Ibid.* p27

[109] Rayner, J p148 'Therapy for an imaginary invalid: Charles Taylor and the malaise of modernity' in *History of the Human Sciences* Vol 5. No. 3 (1992): 145-155

[110] Taylor, C. p234. *Philosophy and the Human Sciences: Philosophical Papers 2* (Cambridge: Cambridge University Press: 1985)

[111] Rayner, J p152 'Therapy for an imaginary invalid: Charles Taylor and the malaise of modernity' in *History of the Human Sciences* Vol 5. No. 3 (1992): 145-155

[112] Taylor, C. p30 "Philosophy and its History" in *Philosophy and its History,* Edited by R. Rorty, J. B. Schneewind and Q. Skinner (Cambridge: Cambridge University Press, 1984): 17-30

[113] White, S. K. p55 *The Strengths of Weak Ontology in Political Theory* (Princeton & Oxford: Princeton University Press, 2000)

[114] Taylor, C. p28 "Philosophy and its History" in *Philosophy and its History,* Edited by R. Rorty, J. B. Schneewind and Q. Skinner (Cambridge: Cambridge University Press, 1984): 17-30

[115] *Ibid.* p28

[116] *Ibid.* p26

Chapter Three

[1] White, S.K *Sustaining Affirmation: The Strengths of Weak Ontology* (Princeton and Oxford: Princeton University Press, 2000)

[2] Taylor, C. The Modern Identity *in Communitarianism: A New Public Ethics* (ed.) Markate Daly (Belmont, California: Wadsworth Publishing Company, 1994)

[3] Smith, N. H. p171 *Charles Taylor: Meaning, Morals and Modernity* (Cambridge: Polity, 2002)

[4] Rawls, J. *A Theory of Justice* (Oxford: Oxford University Press, 1971), Dworkin, R. *Sovereign Virtue* (Cambridge, Massachusetts: Harvard University Press, 2000)

[5] Taylor, C. p30 'Atomism' in Avineri, S. and De-Shalit, A. (eds.) *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992): 29-50

[6] Dworkin, R. 'Rights as Trumps' in *Theories of Rights* (ed.) Jeremy Waldron (New York: Oxford University Press, 1984): 153-167

[7]Taylor, C. p30 'Atomism' in Avineri, S. and De-Shalit, A. (eds.) *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992): 29-50

[8] Mullhall, S. and Swift, A. p120 *Liberals and Communitarians* (Oxford, UK and Cambridge, U.S.A: Blackwell, 1992)

[9] Taylor, C. p307 'The Dialogical Self' in *The Interpretative Turn: Philosophy, Science, Culture* (Edited by David R. Hiley, James F. Bohman, and Richard Schusterman (Ithaca and London: Cornell University Press, 1991): 304-314

[10] Morris, P. p229 'Community Beyond Tradition' in *Detraditionalization: Critical Reflections on Authority and Identity* (eds.) Paul Heelas, Scott Lash and Paul Morris. (Oxford, UK and Cambridge, Mass: Blackwell, 1996): 223-249

[11] *Ibid.* p229

[12] Sandel, M. p114 'The Procedural Republic and the Unencumbered Self' in Farrelly, C (ed.) *Contemporary Political Theory: A Reader* (London: Sage, 2004): 109-112

[13] Morris, P. p229 'Community Beyond Tradition' in *Detraditionalization: Critical Reflections on Authority and Identity* (eds.) Paul Heelas, Scott Lash and Paul Morris. (Oxford, UK and Cambridge, Mass: Blackwell, 1996): 223-249

[14] Cracknell, D. 'Guru of Shame advises Blair' in *Sunday Times* (May 22nd 2005)

[15] As Alan Ryan has noted, it is now widely accepted that "the so-called "liberal-communitarian debate was nothing of the sort". Communitarian critics mounted a fierce and definite attack on liberalism largely by parodying it. Its main contribution then consisted in "forcing liberal political theorists to say more clearly than they had bothered to before just what the sociological and cultural assumptions of their theory were." Ryan, A. p189 'Staunchly modern, non-bourgeois liberalism' in Simhony, A. & Weinstein, D. (Ed.) *The New Liberalism: Reconciling Liberty and Community.* (Cambridge: Cambridge University Press, 2001): 184-204

[16] This is not an entirely accurate characterisation of MacIntyre's brand of communitarianism which ultimately focuses more upon diagnosing the malaises of modernity than in remedying them. He draws upon Aristotle's political theory to recover an ideal of virtue, which he argues, has been divested of significance within the contemporary world. Insofar as he offers political counsel he points to local forms of community rather than the state as the sphere in which lost virtues might take root. Eg. MacIntyre, A. p245 *After Virtue: A Study of Moral Theory* (Notre Dame: University of Notre Dame Press, 1992) and MacIntyre A. p123 *Dependent Rational Animals* (London: Duckworth, 1999) Sandel is ultimately more optimistic about resuscitating civic virtue and strengthening social bonds though his emphasis is mainly on strengthening civic engagement at the level of the national political community. Sandel, M. J *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982) and Sandel, M. *Democracy's Discontents* (Cambridge Mass: Harvard University Press, 1996) Etzioni focuses on trends towards social fragmentation and the weakening of social bonds which promote moral responsibility. Etzioni, A. *The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda* (London: Fontana, 1995) More Recently he has come to consider the importance of a co-operative approach to politics rooted in the idea of 'global goods' which encompass security, human rights and environmental preservation. Etzioni, A. *From Empire to Community* (New York: Palgrave, 2004)

[17] Booth Fowler, R. p153 *Enduring Liberalism: American Political Thought since the 1960s* (Kansas: University Press of Kansas, 1999)

[18] Booth Fowler, R. p172 *Enduring Liberalism: American Political Thought since the 1960s* (Kansas: University Press of Kansas, 1999) Friedman argues that most communitarians privilege the wider national political association as the source of communal identity. Freidman, J. 'The Politics of Communitarianism *Critical Review* 8: (1994) 297-340

[19] Kymlicka, Will. p18. *Politics in the Vernacular* (Oxford: Oxford University Press, 2001).

[20] The distinction that Taylor wants to draw here is sometimes misrepresented. For example, Lawrence Cahoone writes, "Charles Taylor speaking in favour of communitarianism once admitted that the truth of communitarian anthropology has no clear implications for social policy". This position Cahoone argues is "a bit too generous: the communitarian anthropology does indeed have normative implications albeit *vague or mediated,* rather than precise and deductive ones." Cahoone, L. E. p175 *Civil Society: The Conservative Meaning of Liberal Politics* (Oxford: Blackwell, 2002). However, Taylor would not dispute the interdependence of these two levels of thought. In fact an important element of his attack on procedural liberalism is his claim that it draws sustenance from, and lends support to, incoherent atomist ontology.

[21] Taylor, C. p185 *Philosophical Arguments* (Cambridge, Massachusetts & London, England: Harvard University Press, 1995)

[22] Danford, J. p44 *Wittgenstein and Political Philosophy: A Reexamination of the Foundations of Social Science* (Chicago and London: The University of Chicago Press, 1976)

[23] Taylor, C. p29 'Atomism' in Avineri, S. and De-Shalit, A. (eds.) *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992): 29-50

[24] Taylor, C. p135 *Philosophical Arguments* (Cambridge, Massachusetts & London, England: Harvard University Press, 1995)

[25] Taylor, C. p34 'Atomism' in Avineri, S. and De-Shalit, A. (eds.) *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992): 29-50

[26] *Ibid*. p34

[27] Isaiah Berlin, "Two Concepts of Liberty," in *Four Essays on Liberty* (Oxford: Oxford University Press, 1969)

[28] Taylor, C. p213 'What's Wrong With Negative Liberty?' *Philosophy and the Human Sciences: Philosophical Papers 2* (Cambridge: Cambridge University Press: 1985)

[29] Taylor, C. P3. *Sources of the Self: The Making of Modern Identity* (Cambridge: Cambridge University Press, 1989)

[30] Taylor, C. 'What is Human Agency?' in *Human Agency and Language: Philosophical Papers 1* (Cambridge: Cambridge University Press, 1985)

[31] Taylor, Charles. pp 220-221. *Philosophy and the Human Sciences. Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[32] Taylor, C. p27. *The Ethics of Authenticity* (Cambridge, Mass.: Harvard University Press, 1992). First published as *The Malaise of Modernity* (Toronto: Anansi Press, 1991)

[33] *Ibid*. p61 and p66.

[34] *Ibid.* p44.

[35] Robert Goodin uses the example of smoking to offer an account of how an agent's preferences might be evaluated from the point of view of their correspondence with deep and settled interests. It is his analysis of preferences that I draw attention to here, as opposed to the broader aim of the essay, which is to justify paternalistic measures in respect of smoking. Goodin, E. 'Permissible Paternalism: Saving Smokers from Themselves' from *Ethics in Practice* Hugh Lafollette (Ed) (Oxford: Blackwell, 1997)

[36] Taylor, C. p228 'What's Wrong With Negative Liberty?' *Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[37] Taylor, C. p35 'Atomism' in Avineri, S. and De-Shalit, A. (eds.) *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992): 29-50

[38] *Ibid.* p35

[39] Taylor, C. p216 'What's Wrong With Negative Liberty?' *Philosophical Papers 2* (Cambridge: Cambridge University Press: 1985)

[40] Macedo, S. p228 *Liberal Virtues: Citizenship, Virtue and Community in Liberal Constitutionalism* (Oxford: Clarendon Press, 1990)

[41] *Ibid.* p228

[42] Taylor, C. p76. *The Ethics of Authenticity* (Cambridge, Mass.: Harvard University Press: 1992).First published as *The Malaise of Modernity* (Toronto: Anansi Press, 1991)

[43] *Ibid.* p76.

[44] Morris, P. p230 'Community Beyond Tradition' in *Detraditionalization: Critical Reflections on Authority and Identity* (eds.) Paul Heelas, Scott Lash and Paul Morris. (Oxford, UK and Cambridge, Mass: Blackwell, 1996): 223-249

[45] Aristotle also distinguishes different types of friendship and finds friendship based on pleasure or mutual usefulness derivative of the central type of friendship, friendship of character which resembles Armstrong's idea of 'congruence of spirit'. This type of friendship is good for its own sake and does not have pleasure or utility as its object. Aristotle *Nichomachean Ethics* 1156b25-29 Translated by Ross, D. (Oxford: OUP, 1980)

[46] Armstrong, J. p52 *The Conditions of Love: The Philosophy of Intimacy* (London: Penguin, 2003)

[47] Taylor, C. p96 *Philosophy and the Human Sciences*. *Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[48] Sandel, M. J p17 'Morality and the Liberal Ideal' *The New Republic* May 7th 1984, Quoted in Rosenblum, N. L. p163 *Another Liberalism: Romanticism and the Reconstruction of Liberal Thought.* (Cambridge, Massachusetts and London, England: Cambridge University Press, 1987)

[49] Taylor, C. p140 *Philosophical Arguments* (Cambridge, Mass.: Harvard University Press, 1995)

[50] see Taylor, C. Ch.1. *Sources of the Self: The Making of Modern Identity* (Cambridge: Cambridge University Press: 1989). Compare Tully, J. *Strange multiplicity, Constitutionalism in an age of Diversity* (Cambridge: Cambridge University Press, 1995) and Parekh, B. *Rethinking Multiculturalism* (London: MacMillan, 2000)

[51] Taylor, C. 'Reply and Re-articulation', p213. in James Tully, ed., *Philosophy in an Age of Pluralism: The Philosophy of Charles Taylor in Question* (Cambridge: Cambridge University Press, 1994)

[52] *Ibid.* p213.

[53] Rawls, J. *A Theory of Justice* (Oxford: Oxford University Press, 1971) and Rawls, J. *Political Liberalism* (New York: Columbia University Press, 1993).

[54] See Rawls, J. *Political Liberalism* (New York: Columbia University Press, 1993).

[55] Taylor, C. p213 'Living with Difference' In *Debating Democracy's Discontent: Essays on American Politics, Law and Public Philosophy* (eds.) Anita L. Allen and Milton C. Regan, Jr. (Oxford & New York: Oxford University Press, 1998)

[56] Taylor, Charles. p291. *Philosophy and the Human Sciences. Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[57] *Ibid.* p132

[58] Taylor, C. p143 *Philosophical Arguments* (Cambridge, Mass.: Harvard University Press, 1995)

[59] Taylor, C. p27 'Philosophy and its History' in *Philosophy in History: Essays on the historiography of philosophy* (eds.) Richard Rorty, J. B Schneewind and Quentin Skinner (Cambridge: Cambridge University Press, 1984)

[60] Taylor, C. p192 *Philosophical Arguments* (Cambridge, Mass.: Harvard University Press, 1995)

[61] Taylor, C. p40 'Nationalism and Modernity' in *The Morality of Nationalism* (eds.) by Robert McKim and Jeff McMahan (New York & Oxford: Oxford University Press, 1997)

[62] Taylor, C. p117. *The Ethics of Authenticity* (Cambridge, Mass.: Harvard University Press: 1992)

[63] Taylor, C. p214 'Liberal Politics and the Public Sphere' in *New Communitarian Thinking: Persons, Virtues, Institutions and Communities* Edited by Amitai Etzoioni (University Press of Virginia): 183-217

[64] Taylor, C. p310. *Philosophy and the Human Sciences. Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[65] Taylor, C. p141 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (eds.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[66] Taylor, C. p190 'Liberal Politics and the Public Sphere' in *New Communitarian Thinking: Persons, Virtues, Institutions and Communities* (eds.) Amitai Etzoioni (University Press of Virginia): 183-217

[67] *Ibid.* p190

[68] *Ibid.* pp190-191

[69] *Ibid.* p197

[70] Taylor, C. p38 'Nationalism and Modernity' in *The Morality of Nationalism* (eds.) Robert McKim and Jeff McMahan (New York & Oxford: Oxford University Press, 1997)

[71] And Taylor, C. 'Liberal Politics and the Public Sphere' in *New Communitarian Thinking: Persons, Virtues, Institutions and Communities* (eds.) Amitai Etzoioni (University Press of Virginia): 183-217

[72] Taylor, C. p138-139 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (eds.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[73] *Ibid.* p142

[74] Taylor, C. p204 'Liberal Politics and the Public Sphere' in *New Communitarian Thinking: Persons, Virtues, Institutions and Communities* (eds.) Amitai Etzoioni (University Press of Virginia): 183-217

[75] *Ibid.* p190

[76] Taylor, C. p183 'Hegel: History and Politics', Sandel, M. (ed.) *Liberalism and its Critics* (New York: New York University Press, 1984): 176-199

[77] *Ibid.* p186

[78] Berki, R. *Hegel's New Suit* in Political Studies 24 (1976). Here Berki in a review of Taylor's more substantial volume of Hegel *Hegel* (Cambridge: Cambridge University Press, 1975) offers a critique of Taylor's understanding of the idea of alienation. He writes, p203 "Taylor notices that a lot of people in the West are alienated from representative institutions. But this may have more to do with resentment over continuing maldistribution of wealth and power than with the lack of individual self-expression."

Nancy Fraser makes a similar critique of Taylor's tendency to skirt over the material basis of many contemporary struggles for recognition and the tendency of material and symbolic forms of exclusion to work in tandem and reinforce one another. Fraser, Nancy. 'From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age' *New Left Review* No.212 (July/ August 1995): 68-93

[79] Taylor, C. p191 'Liberal Politics and the Public Sphere' in *New Communitarian Thinking: Persons, Virtues, Institutions and Communities* (eds.) Amitai Etzoioni (University Press of Virginia):183-217. This contrasts sharply with Habermas's analysis of the public sphere as an arena for rational will formation which is considered in detail in the following two chapters.

[80] Taylor, C. p204 'Liberal Politics and the Public Sphere' in *New Communitarian Thinking: Persons, Virtues, Institutions and Communities* (eds.) Amitai Etzoioni (University Press of Virginia) 183-217

[81] *Ibid.* p205

[82] *Ibid.* p206

[83] Barker, R. p120 *Legitimating Identities: The Self-Presentations of Rulers and Subjects* (Cambridge: Cambridge University Press, 2001)

[84] see Taylor, C. p157 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (eds.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163 and Taylor C. p116 *Hegel and Modern Society* (Cambridge: Cambridge University Press, 1979)

This way of formulating the problem is not dissimilar to Connolly and Mouffe's respective formulations see Connolly, W. E. *Identity\Difference: Democratic Negotiations of Political Paradox* (London/ Minneapolis 2002) and Mouffe, C. *The Democratic Paradox* (London/ New York: Verso, 2000)

[85] Barker, R. p120 *Legitimating Identities: The Self-Presentations of Rulers and Subjects* (Cambridge: Cambridge University Press, 2001)

[86] Taylor, C. p157 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (eds.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[87] Taylor uses the example of school prayer to illustrate this point in Taylor, C. 'Living with Difference' In *Debating Democracy's Discontent: Essays on American Politics, Law and Public Philosophy* (eds.) Anita L. Allen and Milton C. Regan, Jr. (Oxford & New York: Oxford University Press, 1998)

[88] Taylor, C. p157 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (eds.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[89] Patchen Markell offers an interesting analysis of the tension between the cognizant and constructive moments of the dialogic negotiation of identities as they function in various accounts of political recognition. Markell, P. 'The Recognition of Politics: A Comment on Emcke and Tully' in *Constellations* Volume 7. No. 4 (2000): 496-506

[90] Warren, M. 'Democratic Theory and Self-Transformation' in *American Political Science Review* (Vol. 86, No.1 March 1992): 8-23

[91] Taylor, C. p215 'Living with Difference' In *Debating Democracy's Discontent: Essays on American Politics, Law and Public Philosophy* (eds.) Anita L. Allen and Milton C. Regan, Jr. (Oxford & New York: Oxford University Press, 1998)

[92] *Ibid.* p221

[93] *Ibid.* p214

[94] Barnard, F. M. p309 Self-Direction and Political Legitimacy; Rousseau and Herder (Oxford: Clarendon Press, 1988)

[95] *Ibid.* p309

[96] Laforest, Guy. pxiii Introduction, *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queens University Press, 1993)

[97] *Ibid.* pxiii

[98] Russell, P. p193. *Constitutional Odyssey. Can Canadians Be a Sovereign People?* (Toronto: Toronto University Press, 1992)

[99] Taylor, C. p155-186 *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queens University Press, 1993)

[100] Taylor, C. p175 *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queens University Press, 1993)

[101] Vipond, R. C. 'Quebec Confronts Canada' *Publicus* vol 23 (3): 29-55

[102] Milne, D *Whither Canadian Federalism? Alternative Constitutional Futures* in Burgess, M. & Gagnon, Alain G. ed. *Comparative federalism and federation competing traditions and future directions* (Hertfordshire: Harvester Wheatscheaf, 1993): 203-26

[103] Taylor, C. p171 *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queens University Press, 1993)

[104] *Ibid.* p171

[105] *Ibid.* p27

[106] Taylor, C. p36 *Philosophy and the Human Sciences. Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985)

[107] Taylor, C. p27 *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queens University Press, 1993)

[108] *Ibid.* p29

[109] *Ibid.* p29

[110] Also important is Axel Honneth's book *The Struggle For Recognition: The Moral Grammar of Social Conflicts* (Cambridge: Polity Press, 1995)

[111] Taylor C. PR p25

[112] Hegel, G. W. F pp111-119. *Phenomenology of Spirit* (Oxford: Oxford University Press: 1977 [1807])

[113] Taylor, C. PR p27

[114] Taylor, C. PR p29

[115] Taylor, C. PR p32

[116] Taylor, C. PR p32

[117] Taylor, C. PR p27

[118] Taylor, C. PR p33

[119] Taylor, C. PR p39

[120] See Taylor, C. PR; Tully, J. Strange multiplicity, Constitutionalism in an age of diversity (Cambridge: Cambridge University Press, 1995) and 'Struggles over Recognition and Distribution' Constellations 17/4 (2000): 469-482, Parekh, B. Rethinking Multiculturalism (London: MacMillan:2000) Honneth, A. 'Integrity and Disrespect: Principles of a Conception of Morality Based on a Theory of Recognition in Political Theory, Vol.20, No.2 (May 1992): 187-201

[121] see for example Richard Rorty, 'Is "Cultural Recognition" a Useful Concept for Leftist Politics?' Critical Horizons 1/1 (February 2000): 7-20 & Brooks, D. 'Class Politics versus Identity Politics', The Public Interest, 125 (1996): 116-124.

[122] e.g Fraser, N. 'From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age' *New Left Review* No.212 (July/ August 1995): 68-93: Benhabib, S. *The Claims of Culture: Equality and Diversity in a Global Era* (Oxford & Princeton: Princeton University Press, 2002) Young, I. *Justice and the Politics of Difference* (Princeton: Princeton University Press: 1990)

[123] Isin, E. F and Wood, P. K. *Citizenship and Identity* (London: Sage, 1999)

[124] Honneth, A p188 'Integrity and Disrespect: Principles of a Conception of Morality Based on a Theory of Recognition in Political Theory, Vol.20, No.2 (May 1992) pp187-201

[125] *Ibid.* pp190-191

[126] see Fraser N. p73. 'From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age' *New Left Review* No.212 (July/ August 1995): 68-93

[127] Taylor, C. PR 66-7

[128] Galeotti. A. E 'Contemporary Pluralism and Toleration' *Ratio Juris* 10/2 (June 1997): 223-235

[129] Wolin, S. p467 'Democracy, Difference and Re-Cognition' *Political Theory,* Vol. 21, No. 3 (August 1993): 464-483

[130] *Ibid.* p467

[131] Gutmann A. and Thompson D. *Democracy and Disagreement* (Cambridge, Mass: Harvard University Press, 1996)

[132] Taylor, C. PR p.43

[133] Taylor, C. PR p.43

[134] Taylor, C. PR p.41

[135] Taylor, C. PR p.42

[136] Taylor, C. PR p.61

[137] Taylor, C. PR p.62

[138] Taylor, C. PR p.69

[139] I think that this is an extremely useful way of putting things since it avoids one of the common confusions in some of the literature in this area. This is the propensity to equate value-pluralism with cultural pluralism and to suggest on this basis that just as values are incommensurable, so too are ways of life. See for example Parekh, B *Rethinking Multiculturalism* (London: MacMillan Press: 2000) p48. Also, Gray, J. *Two Faces of Liberalism* (Blackwell: Oxford, 2000). Although Gray reads Isaiah Berlin as a value-pluralist, it has been suggested that Anti-Procrusteanism is an equally important aspect of his critique of monism. Thus Levy writes, "Many times he examined the moral psychology of those who would enforce uniformity, as well as criticizing the intellectual underpinnings of moral monism" Levy, J. T. p107 *The Multiculturalism of Fear* (Oxford: Oxford University Press, 2000) Taylor's proposal that we should approach other cultures with the presumption of equal worth seems to be a useful way of counteracting the universalising zeal which is a feature of modern psychology while not lapsing into what he refers to as 'soft relativism'. (See also Chapter 1, FN. 107)

[140] Taylor, C. PR p70

[141] Taylor, C. PR p25

[142] Taylor, C. p27 *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queens University Press, 1993)

[143] For a useful examination of the dynamics between Quebec's claims for recognition and Aboriginal aspirations for self government see Colin H. Williams chapter 'A Requiem for Canada' in Graham Smith's Ed. *Federalism: The Multiethnic Challenge* (London and New York: Longman, 1995)

[144] Parekh, B. p103 *Rethinking Multiculturalism* (London: MacMillan Press, 2000)

[145] Kymlicka, W. P52. *Politics in the Vernacular* (Oxford: Oxford University Press, 2001)

[146] Taylor, C. PR p58

[147] Taylor, C. PR p59

[148] I consider Kymlicka's conception of multicultural citizenship in more detail in Chapter One.

[149] Taylor, C. PR pp40-41 FN 16.

[150] Taylor, C. PR p58

[151] Kymlicka, W. p60 *Politics in the Vernacular* (Oxford University Press: Oxford, 2001)

[152] Taylor, C. PR 62-63

[153] See Taylor's discussion about supporters of Christian prayer in schools. Taylor, C. p221 'Living with Difference' In *Debating Democracy's Discontent: Essays on American Politics, Law and Public Philosophy* (eds.) Anita L. Allen and Milton C. Regan, Jr. (Oxford & New York: Oxford University Press, 1998)

[154] Taylor, C. PR p62

[155] Kukathas, C. p693 'Liberalism and Multiculturalism: The Politics of Indifference' *Political Theory* Vol. 26 No. 5 (October 1998): 686-699

[156] Sunday trading legislation and special immunities such as those granted to Sikhs on the wearing of protective headgear have arguably fostered better community relations rather than producing deep divisions. Festenstein, M. 75-76 'Cultural Diversity and the limits of Liberalism' *Political Theory in Transition* Edited by N. O'Sullivan (London & New York: Routledge, 2000): 70-90 Equally, withholding culturally specific forms of recognition in favour of strong commitment to secularism can worsen community relations as is evidenced by the case of Muslim girls not being allowed to wear the *hijab* in French State Schools.

[157] Galeotti, E. p103 *Toleration as Recognition* (Cambridge: Cambridge University Press, 2002)

[158] Honohan, I. p255 *Civic Republicanism* (London & New York: Routledge, 2002)

[159] Benhabib, S. p57 *The Claims of Culture: Equality and Diversity in a Global Era* (Oxford & Princeton: Princeton University Press, 2002)

[160] Courtney Jung has also suggested that those identities that gain primacy as a source of identification will shift over time as they are mediated by processes of politicization. Unlike Kukathas however, she does not see this as an argument for excluding identity negotiations from the public realm. See Jung, C. *Then I was Black: South African Political Identities in Transition* (New Haven: Yale University Press, 2000) and Jung, C. 'The Burden of Culture and the Limits of Liberal Responsibility' in *Constellations* Vol, 8. No. 2 (2001): 219-235

[161] Kukathas, C. p693 'Liberalism and Multiculturalism: The Politics of Indifference' *Political Theory* Vol. 26, No. 5 (October 1998): 686-699

[162] Hoover, J. p208 'Do the Politics of Difference Need to be Freed of a Liberalism?' in *Constellations* Volume 8, No. 2 (2001): 201-218

[163] Kukathas, C p692 'Liberalism and Multiculturalism: The Politics of Indifference' *Political Theory* Vol. 26, No. 5 (October 1998): 686-699

[163] *Ibid.* p695

[164] *Ibid.* p693

[165] Shachar, A. 'On Citizenship and Multicultural Vulnerability' *Political Theory.* February. No. 28, Vol. 1 (2000): 64-89

[166] Benhabib, S. p57 *The Claims of Culture: Equality and Diversity in a Global Era* (Oxford & Princeton: Princeton University Press, 2002)

[167] *Ibid.* p54

[168] Modood, T. P 176 'Anti-Essentialism, Multiculturalism, and the 'Recognition' of Religious Groups' in Kymlicka, W. and Norman, W. (eds.) *Citizenship in Diverse Societies* (Oxford, Oxford University Press, 2000) 175-195

[169] Nicholson, L. p6 'To be or not to be: Charles Taylor and the Politics of Recognition' *Constellations* Volume 3, No. 1 (1996): 1-16

[170] Squires, N. p21. 'Despair of a forgotten People.' *Sunday Herald* (16th February 2003)

[171] Taylor, C. p204 'Liberal Politics and the Public Sphere' in *New Communitarian Thinking* Ed Amitai Etzoni (Charlottesville and London: University Press of Virginia: 1995): 183-217

[172] *Ibid.* p184

[173] Smith, N. H. p154 *Charles Taylor: Meaning Morals and Modernity* (Cambridge: Polity, 2002)

[174] Taylor, C. p157 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (eds.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[175] Compare, Chapter 3, Section 3.3.

[176] Waldron, J 'Precommitment and Disagreement' Alexander, L. (Ed) *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998): 271-199

[177] An idea which usefully conveys the idea of pre-commitment in expressly democratic terms is the idea that authorship must be the source of political authority for modern constitutions. A constitution has authority in virtue of its being a container of norms that an agent does not feel rightly free to ignore. Frank Michelman has examined the propensity to tie the authority of constitutional norms to their authorship. Authorship refers here to the idea that law is the expression of "politically circumstanced human agents, which gains its bindingness on us at least in part by force of its reputed intentionality." The connection is explicit in cases in which I clearly acknowledge an agent's sovereignty, that is, her legal title to rule. But the case is complicated in democratic states in which authorship must devolve on the people collectively. In the final analysis, the people are seen to have the title to rule so that "Democratic sovereignty is only the sovereignty we accredit." Michelman, F. I 'Constitutional Authorship' in Alexander, L. (Ed) *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998): 64-98

[178] Taylor, p161 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (eds.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[179] Parekh, B. p186 *Rethinking Multiculturalism* (London: Macmillan, 2000)

[180] Parekh, B. p13 'Superior People: The Narrowness of liberalism from Mill to Rawls' *Times Literary Supplement* (25th February 1994): 11-13

[181] Tully, J. p186 *Strange Multiplicity- Constitutionalism in an age of diversity* (Cambridge MA: Cambridge University Press, 1995)

[182] Taylor, C. p216 'Living with Difference' in *Debating Democracy's Discontent: Essays on American Politics, Law and Public Philosophy* (eds.) Anita L. Allen and Milton C. Regan, Jr. (Oxford & New York: Oxford University Press, 1998)

[183] *Ibid.* p225

[184] This characterisation of different ways of relating to culture draws upon Parekh, B. p149-150 *Rethinking Multiculturalism* (London: MacMillan, 2000)

[185] Barnard, F. M. p309 Self-Direction and Political Legitimacy; Rousseau and Herder (Oxford: Clarendon Press, 1988)

[186] Connolly, W. p89 *Identity|Difference: Democratic Negotiations of Political Paradox* Expanded Edition (Minneapolis/ London: University Of Minnesota Press: 2002 (1991))

[187] Taylor, C. p385 "Connolly, Foucault and Truth" in *Political Theory* (August 1985): 377-385, Quoted in William Connolly p89 *Identity|Difference: Democratic Negotiations of Political Paradox* Expanded Edition (Minneapolis/ London: University Of Minnesota Press: 2002 (1991))

[188] Redhead, M, p810 'Making the Past Useful for a Pluralistic Present: Taylor, Arendt, and a Problem for Historical Reasoning' in *American Journal of Political Science* Vol. 46, No. 4 (October 2002) Quoting Taylor, C. p71 *Philosophy and the Human Sciences: Philosophical Papers*. Vol.2 (Cambridge: Cambridge University Press, 1985)

[189] Honig, B. p149 'Toward an Aqonistic Feminism' in *Feminist Interpretations of Hannah Arendt* Edited by Bonnie Honig (Pennsylvania: The Pennsylvania State University Press, 1995) 135-166

Chapter Four

[1] Taylor, C. p58 'The Modern Identity' in Daly, M. (Ed.) *Communitarianism: A New Public Ethics* (Belmont, California: Wadsworth, 1994): 55-71

[2] Habermas, J. p422 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[3] Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996), Habermas, J. *Inclusion of the Other* Edited by Ciaran Cronin and Pablo De Greiff (Cambridge: Polity Press, 1998)

[4] Habermas, J. p181 'Hannah Arendt on the Concept of Power' in *Philosophical-Political Profiles*. Trans. Frederick G. Lawrence. (Cambridge: Massachusetts Institute of Technology Press, 1985): 171-187

[5] Habermas, J. 'Discourse Ethics' p75-76 in *Moral Consciousness and Communicative Action.* (Cambridge: Polity: 1990) First published in *Moralbewusstsein und kommunikatives Handeln* (Frankfurt am Main: Suhrkamp Verlag, 1983)

Habermas, J. *Justification and Application* (Cambridge, Massachusetts & London, England: MIT Press, 1993) Especially 'On the Pragmatic, the Ethical, and the Moral Employments of Practical Reason' pp1-17 first delivered as the Howison Lecture at Berkeley in 1988, and 'Remarks on Discourse Ethics' pp19-111 which Habermas states in the preface were derived from notes made during the years 1987 to 1990.

[6] "While strength is the natural quality of an individual seen in isolation, power springs up between men when they act together and vanishes the moment they disperse." Arendt, H. p200 *The Human Condition* (Chicago & London: University of Chicago Press, 1998)

[7] In developing his account of the *system* as an entity that is in some sense autonomous of the *lifeworld,* Habermas is influenced by the theory of social systems devised by Talcott Parsons during the 1960s and 1970's. Niklas Luhmann became the chief German representative of a modified version of systems theory and becomes Habermas's chief interlocutor in later work. For a more detailed analysis of these points see: Dodd, N. p110 *Social Theory and Modernity* (Cambridge: Polity, 1999) & Holub, R. C. p108 *Jürgen Habermas: Critic in the Public Sphere* (London & New York: Routledge, 1991)

[8] Habermas, J. p51 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[9] Erik Oddvar Eriksen and Jarle Weigård p179 *Understanding Habermas: Communicative Action and Deliberative Democracy* (London: Continuum, 2003), Habermas, J. p36 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[10] Both Hannah Arendt and Jean-Jacques Rousseau draw on the experience of the small city-states of the Greeks and the Romans. In the *Confessions* Rousseau admits to an early preoccupation with these forms of political organisation, which had a peculiar resonance for him as a citizen of Genevan Republic. He writes in the Confessions "Continuously pre-occupied with Rome and Athens, living as one might say with their great men, myself born the citizen of a republic and the son of a father whose patriotism was his strongest passion, I took fire by his example and pictured myself as a Greek or a Roman." Rousseau, J.J p20 *The Confessions* Translated by J. M. Cohen (London: Penguin, 1953) Arendt draws heavily on the political experience of the Ancient Greek Polis in *The Human Condition,* (Chicago & London: University of Chicago Press, 1998) Shiraz Dossa suggests that, "Periclean Athens and its celebration of the public life of the polis –its democratic temper, the virile virtuosity of citizens, its keen passion for competitive excellence-is the powerful image at the heart of Hannah Arendt's political theory." Dossa, S. p vii. *The Public Realm and the Public Self: The Political Theory of Hannah Arendt* (Waterloo, Ontario, Canada: Wilfred Laurier University Press, 1989)

[11] Arendt, H. p176 *The Human Condition* (Chicago & London: University of Chicago Press, 1998)

[12] Arendt, H. 'What is Freedom?' in *Between Past and Future* (Middlesex: Penguin, 1993): 143-171

[13] Habermas, J. pp51-2 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[14] Habermas J. p426'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461 and Habermas, J. p29 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[15] Johnson, P. 'Habermas's Search for the Public Sphere' *European Journal of Social Theory* Vol.4, Issue 2 (2001): 215-236

[16] Habermas J. p427 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[17] Habermas, J. p8 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[18] *Ibid.* pp36-37

[19] *Ibid.* p36

[20] *Ibid.* p36

[21] Habermas J. p424 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[22] Habermas, J. pp82-83 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992) and Habermas J. p52-53 'The Public Sphere: An Encyclopedia Article (1964)' Translated by Sara Lennox and Frank Lennox. in *New German Critique* Number 3 (Fall 1974): 49-55

[23] Habermas, J. p52 'The Public Sphere: An Encyclopedia Article (1964)' Translated by Sara Lennox and Frank Lennox. in *New German Critique* Number 3 (Fall 1974): 49-55

[24] *Ibid.* p52

[25] *Ibid.* p53

[26] *Ibid.* p53

[27] Habermas J. pp445-446 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[28] Habermas, J. p33 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[29] Warren, M. p174 'Deliberative Democracy' in *Democratic Theory Today: Challenges for the 21st Century* Edited by April Carter and Geoffrey Stokes (Polity: Cambridge, 2002): 173-201

[30] Habermas J. p139 'A Conversation about Questions of Political Theory' in *A Berlin Republic: Writings on Germany* (Lincoln: University of Nebraska Press: 1997)

[31] Fraser, N. p110-111 'Rethinking the Public Sphere: A contribution to the Critique of Actually Existing Democracy' in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 109 -142

[32] Habermas, J. p54 'The Public Sphere: An Encyclopaedia Article (1964)' Translated by Sara Lennox and Frank Lennox. *New German Critique* Number 3 (Fall 1974): 49-55

[33] Edgar, A. p 44 *The Philosophy of Habermas* (Chesham, Bucks: Acumen, 2005)

[34] *Ibid* p39: compare Holub, R. C. pp3-4 *Jürgen Habermas: Critic in the Public Sphere* (London & New York: Routledge, 1991)

[35] Habermas, J. p144 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[36] *Ibid.* p142

[37] Habermas p54 'The Public Sphere: An Encyclopedia Article (1964)' Translated by Sara Lennox and Frank Lennox. in *New German Critique* Number 3 (Fall 1974): 49-55

[38] Habermas, J. p4 *Theory and Practice* Translated by John Viertel (Cambridge: Polity Press, 1996)

[39] Habermas, J. p206 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[40] *Ibid.* p178

[41] Habermas J. p442 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[42] Habermas, J. p237 *The Structural Transformation of the Public Sphere* (Cambridge: Polity, 1992)

[43] Jan-Werner Müller.p46. 'Portrait- Jürgen Habermas' in *Prospect* (March 2001): 44-48

[44] Fraser, N. p113 'Rethinking the Public Sphere: A contribution to the Critique of Actually Existing Democracy' in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 109 -142

[45] *Ibid.* p115

[46] *Ibid.* p131

[47] *Ibid.* p120

[48] *Ibid.* p120

[49] Eley, G. 'Nations, Publics and Political Cultures' in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994) Quoted by Fraser. N. 'Rethinking the Public Sphere: A contribution to the Critique of Actually Existing Democracy' in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 109 -142

[50] Fraser, N. p122 'Rethinking the Public Sphere: A contribution to the Critique of Actually Existing Democracy' in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 109 -142

[51] *Ibid.* p126

[52] *Ibid.* p120

[53] Habermas J. p443 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[54] *Ibid*. p443

[55] *Ibid.* pp452-454

[56] Habermas describes the role that he envisages for this newly reconstructed public realm in various ways. In his essay 'Further Reflections on the Public Sphere', he suggests that its purpose is to "erect a democratic dam against the colonizing *encroachments* of system imperatives on areas of the lifeworld." p444 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994) pp421-461. Later, he suggests that the communicative power generated in the public sphere should perform a 'signal function' influencing the systematic logic of public bureaucracies without displacing them. Habermas, J. p.359 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[57] Habermas J. p428 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[58] *Ibid.* p429

[59] Habermas, J. p186 *Communication and the Evolution of Society* Translated by Thomas McCarthy (London: Heinemann, 1979)

[60]Habermas J. p442 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[61] Habermas, J. p113 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[62] Habermas, J. 'On the German-Jewish Heritage' in *Telos* 44 (Summer 1980): 127-131

[63] It will not be necessary to pursue the question here, of whether Habermas's attempt to construct a discourse ethics which makes strong cognitivist claims involves a more explicit theorisation of the critical potential inherent in Arendt's account of communicative action or might be more accurately interpreted as a subversion of Arendt's concept. My primary concern is to analyse the impact of this critical appropriation the formulation of Habermas's own analysis of political power and his discourse-theoretic conception of legitimacy. Interesting analysis of the former question are provided by Gerard. P. Heather and Matthew Stolz 'Hannah Arendt and the Problem of Political Theory' in *The Journal of Politics* Volume 41, Issue 1 (February 1979): 2-22 and Margaret Canovan in 'A Case of Distorted Communication; A note on Habermas and Arendt' in *Political Theory* Vol.11, no.1 (February 1983): 105-116

[64] Brink, Bert van den p87 *The Tragedy of Liberalism: An Alternative Defense of a Political Tradition.* (Albany: State University of New York Press, 2000)

[65] Warren, M. p168 'The self in discursive democracy' in *The Cambridge Companion to Habermas,* Edited by Stephen K. White (Cambridge: Cambridge University Press, 1995): 167-200. Brink, Bert van den p87-88 *The Tragedy of Liberalism: An Alternative Defense of a Political Tradition.* (Albany, State University of New York Press, 2000)

[66] Eg. Schumpeter, J. *Capitalism, Socialism and Democracy* (London: Allen and Unwin, 1983)

[67] *Ibid.* p269

[68] Cohen, J. and Arato, A. p4 *Civil Society and Political Theory* (Cambridge: Mass: MIT Press, 1992)

[69]Carole Pateman argues that "The collapse of the Weimar Republic, with its high rates of mass participation, into fascism, and the postwar establishment of totalitarian regimes based on mass participation, albeit backed by intimidation and coercion, underlay the tendency for 'participation' to become linked to the concept of totalitarianism rather than democracy." Pateman, C. p2 *Participation and Democratic Theory* (Cambridge: CUP, 1970)

[70]Arendt, H. pp 460-479 *The Origins of Totalitarianism* (San Diego, New York & London: Harcourt Inc, 1976)

[71]Arendt, H. p272 *On Revolution* (Penguin: London and New York, 1990)

[72] *Ibid* p.272

[73] Arendt, H. p. 44. *On Violence* (New York: Harcourt, Brace and World, 1970) Cited by Habermas in his 'Hannah Arendt's Communications Concept of Power' p4 *Social Research* (Spring 1977): 3-24

[74] Sieyes, E.J. *What is the Third Estate?* Translated by M. Blondel (London: Pall Mall Press, 1963)

[75] Arendt, H. p145. *On Revolution* (Penguin: London and New York, 1990)

[76] It is worth noting that for Sieyes the *pouvoir constituent* was tied to the power held by representatives. As with the theories of democratic elitism these representatives were not to act as delegates or 'mouthpieces' of popular will. Sieyes, E.J. *What is the Third Estate?* Translated by M. Blondel (London: Pall Mall Press, 1963)

[77] Habermas, J. p170 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[78] Arendt, H. p257 'Appendix: Judging' in *Life of the Mind* (San Diego, London and New York: Harcourt and Brace, 1971)

[79] *Ibid.* p275

[80] Issac, J. C. p80. *Arendt, Camus and Modern Rebellion* (New Haven: Yale University Press, 1992)

[81] Habermas, J. p4. 'Hannah Arendt's Communications Concept of Power' *Social Research* (Spring1977): 3-24

[82] Habermas, J. p149 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[83] Habermas, J. pp186-187 'Legitimation Problems in the Modern State' in *Communication and the Evolution of Society* Translated by Thomas McCarthy (London: Heinemann, 1976)

[84] Habermas J. p180-181 *Philosophical Political Profiles* (Cambridge: MIT Press, 1983)

[85] Habermas J. p287 'Discourse Ethics: Notes on a Program of Philosophical Justification.' In *Moral Discourse and Practice- Some Philosophical Approaches* Edited by S. Darwell, A. Gibband and P Railton (New York: OUP, 1997): 287-301

[86] *Ibid* p287

[87]Habermas, J. p 22-24 'Hannah Arendt's Communications Concept of Power' *Social Research: An International Quarterly of the Social Sciences* (Spring 1977): 3-24 and, Habermas J p.179 *Philosophical Political Profiles* (Cambridge: MIT Press, 1983)

[88] Habermas. J p129 'On the German-Jewish Heritage' *Telos* (Summer 1980): 127-131

[89] According to some critical theorists, e.g Axel Honneth, Habermas's own conception of social labour is also, to some extent, depoliticised since he fails to explore the extent to which alientation might induce emancipatory potentials which do not translate into the logic of undistorted communication and mutual understanding. Honneth suggests that "the moral knowledge constructed on the basis of such experiences is embodied in acts of work which claim their autonomy even in the organizational reality of externally determined forms of work." Honneth, A. p47 *The Fragmented World of the Social: Essays in Social and Political Philosophy* Edited by Charles W. Wright. (Albany: State University of New York Press, 1990) Habermas's appropriation of the Aristotelian distinction between *praxis* and *poesis,* which was also important for Arendt's political thought, has been seen as diluting the potential of a critical theory by downgrading social labour to a category of instrumental action and thereby relieving it of its capacity for resistance, and of its emancipatory potential. Axel Honneth suggests that "if Habermas had differentiated the category of instrumental action internally as much as he differentiates the spectrum of social action normatively, then he would have been required to recognize the existence of moral practical knowledge which is based not upon the consciousness of systematically distorted relations of communication, but upon the experience of the destruction of true acts of work in the course of the rationalisation of production techniques. That consciousness of social injustice which builds upon the systematic expropriation of one's own work activity, however, is completely overlooked in Habermas's categories." Axel Honneth, pp46-47*The Fragmented World of the Social: Essays in Social and Political Philosophy* Edited by Charles W. Wright. (Albany: State University of New York Press, 1990)

[90] Habermas J. p178-179 *Philosophical Political Profiles* (Cambridge: MIT Press, 1983)

[91] Tercheck, R. J *Republican Paradoxes and Liberal Anxieties: Retrieving neglected fragments of political theory* (Lanham, London: Rowman & Littlefield Publishers, 1997)

[92] James Bohman makes this point arguing further, "Capitalism, Habermas has always insisted, is inconsistent with democracy, since it organizes society non-democratically. Its structural inequalities delegitimize any existing democratic structures by having them take on functions with regard to economic conditions." Bohman, J. p282 'Participating in Enlightenment: Habermas's Cognitivist Interpretation of Democracy' in *Knowledge and Politics: Case Studies in the Relationship Between Epistemology and Political Philosophy* Edited by Marcelo Dascal and Ora Gruengard (San Francisco and London: Boulder, 1989): 264-289. Habermas continues to insist in his latest work "The relationship between capitalism and democracy is fraught with tension, something liberal theories often deny." Habermas, J. p501 *Between Facts and Norms:*

Contributions to a Discourse Theory of Law and Democracy Translated by William Rehg (Cambridge: Polity, 1996). Essays exploring Habermas's sometimes ambivalent assessment of the relationship between capitalism, liberalism and democracy include, Nancy S. Love 'What's left of Marxism' in *The Cambridge Companion to Habermas,* Edited by Stephen K. White (Cambridge: Cambridge University Press, 1995): 46-66 and David Ingram 'Individual Freedom and Social Equality: Habermas's Democratic Revolution in the Social Contractarian Justification of Law' in Lewis Edwin Hahn (ed.) *Perspectives on Habermas* (Chicago and La Salle, Illinois: Open Court, 2000): 289-307

[93] Schwarz. J. M p220 *The Permanence of the Political: A Democratic Critique of the Radical Impulse to Transcend Politics.* (Princeton, New Jersey: Princeton University Press, 1995)

[94] Habermas, J. p129 'On the German-Jewish Heritage' *Telos* (Summer 1980): 127-131

[95] Habermas, J. p262 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[96] Habermas, J. p129 'On the German-Jewish Heritage' *Telos* (Summer 1980): 127-131

[97] Habermas J. p124 *The Theory of Communicative Action Vol. 2. Lifeworld and System* Translated by Thomas McCarthy (Boston: Beacon Press, 1987) and Habermas, J. p223 'A Reply' in Axel Honneth and Hans Joas Edition *Communicative Action: Essays on Jürgen Habermas's Theory of Communicative Action'* Translated by Jeremy Gaines and Doris L. Jones (Cambridge: Polity Press, 1991)

[98] Habermas, J p225 *The Theory of Communicative Action. Vol. 2. Lifeworld and System* Translated by Thomas McCarthy (Boston, Massachusetts: Beacon Press, 1987):Habermas, J p4 *Legitimation Crisis* Translated by Thomas McCarthy (London: Heinemann, 1976)

[99] Thornhill, C. offers a useful summary of the development of Habermas's thought in a chronological manner that pays attention specifically to the German social and political context. See also Martin Leet p87 'Jürgen Habermas and Deliberative Democracy' in April Carter and Geoffrey Stokes Ed. *Liberal Democracy and its Critics* (Cambridge: Polity, 1998): 77-97

[100] Habermas, J. p150. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy,* Translated by William Rehg (Cambridge: Polity, 1996)

[101] Habermas has in his later work come to envisage the lifeworld as a sphere which has a greater practical political efficacy. In the *Theory of Communicative Action* he presented the task of the lifeworld as a defensive one, maintaining its unique mode of action against the encroachment by systems imperatives. However this offered little practical guidance for the project of radical democracy. See MaCarthy, T. 'Complexity and Democracy, or: The seducements of systems theory', *New Germas Critique* 35 (1985): 27-53, and White, S. K p126 *The Recent Work of Jürgen Habermas* (Cambridge: CUP, 1988)

[102] Habermas, J. p 82 *The Postnational Constellation* Translated and Edited by Max Pensky (Cambridge: Polity, 2004)

[103] Habermas, J. p137 *The Theory of Communicative Action. Vol. 2. Lifeworld and System* Translated by Thomas McCarthy (Boston, Massachusetts: Beacon Press, 1987)

[104] Habermas, J. p159, FN 16 *Legitimation Crisis* Translated by Thomas McCarthy (London: Heinemann, 1976)

[105] Habermas, J. p131 *The Theory of Communicative Action. Vol. 2. Lifeworld and System* Translated by Thomas McCarthy (Boston, Massachusetts: Beacon Press, 1987)

[106] Habermas, J. pp8-10 *The Theory of Communicative Action. Vol. 1 Reason and rationalization of Society* (Boston, Massachusetts: Beacon Press, 1987)

[107] Habermas, J. p15, p315 *The Theory of Communicative Action. Vol. 1 Reason and rationalization of Society* (Boston, Massachusetts: Beacon Press, 1987)

[108] Giddens, A. 'Jurgen Habermas' in Skinner, Q. *The Return of Grand Theory in the Human Sciences* (Cambridge: Cambridge University Press, 1985)

[109] Giddens, A. p129. 'Jurgen Habermas' in Skinner, Q. *The Return of Grand Theory in the Human Sciences* (Cambridge: Cambridge University Press, 1985) and Benhabib, S. p284 'Critique, Norm and Utopia' (New York and Guildford, Surrey: Columbia University Press, 1986)

[110] *Ibid* p130

[111] Habermas, J. p260 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[112] Habermas, J p145 *The Theory of Communicative Action. Vol. 2. Lifeworld and System* Translated by Thomas McCarthy (Boston, Massachusetts: Beacon Press, 1987)

[113] Habermas, J. p 82-83 *The Postnational Constellation* Translated and Edited by Max Pensky (Cambridge: Polity, 2004)

[114] Habermas, J. p77 *The Theory of Communicative Action. Vol. 2. Lifeworld and System* Translated by Thomas McCarthy (Boston, Massachusetts: Beacon Press, 1987)

[115] Habermas, J. p99 'On Social Identity' in *Telos: A quarterly journal of radical social theory* Number 19, (Spring 1974): 91-103

[116] Habermas, J. p343 *The Philosophical Discourse of Modernity* Translated by Thomas MaCarthy (Cambridge, Mass: MIT Press, 1987)

[117] *Ibid.* pp344-346

[118] Habermas, J. p99 'On Social Identity' in *Telos: A quarterly journal of radical social theory* Number 19, (Spring 1974): 91-103

[119] *Ibid.* p99: Compare his more recent exposition in *The Postnational Constellation* where he argues that the modernization of intersubjectively shared lifeworlds invests individuals with the freedom to "enter into new social ties and to creatively draft new rules for living together with others." Habermas, J. p83 *The Postnational Constellation* Translated and Edited by Max Pensky (Cambridge: Polity, 2004)

[120] Clark, W. p57 *Activism In the Public Sphere: Exploring the discourse of political participation* (Aldershot: Ashgate, 2000)

[121] Habermas, J. p110 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[122] *Ibid.* p110

[123] Villa, D. R p713 'Postmodernism and the Public Sphere' in *American Political Science Review* Vol. 86, No. 3 (September 1992): 712-721

[124] For a critique of Habermas's attempt to interpret Arendt's account of communicative power in terms of rational discourse that appeals to immanent validity claims or transcendent rational standards refer to the literature referenced in footnote 63 of this chapter.

[125]Habermas, J. p 23 'Hannah Arendt's Communications Concept of Power' *Social Research: An International Quarterly of the Social Sciences* (Spring 1977): p3-24 I owe this way of formulating this distinction to Canovan p109 'A Case of Distorted Communication; A note on Habermas and Arendt' in *Political Theory* Vol.11 no.1 (February 1983): 105-116

[126] Habermas, J. p337-338 *On the Cognitive Content of Morality* Proceedings of the Aristotelian Society (1996): 335-358

[127] Habermas, J. p6 *Justification and Application: Remarks on Discourse Ethics* Translated by Ciaran Cronin (Cambridge, Mass. MIT Press, 1991)

[128] Habermas, J. p341 *On the Cognitive Content of Morality* Proceedings of the Aristotelian Society (1996): 335-358

[129] Habermas, J. p6 'On the Employments of Practical Reason' in *Justification and Application* translated by Ciaran Cronin (Cambridge, Massachusetts & London, England: MIT Press: 1993)

[130] Habermas, J. p338, 341-2 *On the Cognitive Content of Morality* Proceedings of the Aristotelian Society (1996): 335-358

[131] *Ibid* p354

[132] Habermas, J. p104 'Discourse Ethics: Notes on a Program of Philosophical Justification' in *Moral Consciousness and Communicative Action* Translated by Christian Lenhardt and Shierry Weber Nicholsen (Cambridge: Polity, 1990): 43-115

[132] Habermas J. p118 'Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism' *Journal of Philosophy* Vol. XCII, No. 3, (March 1995): 109-131

[133] Habermas, J p89 *Legitimation Crisis* Translated by Thomas McCarthy (London: Heinemann, 1976)

[134] Habermas, J. p66 'Discourse Ethics: Notes on a Program of Philosophical Justification' in *Moral Consciousness and Communicative Action* Translated by Christian Lenhardt and Shierry Weber Nicholsen (Cambridge: Polity, 1990): 43-115

[135]Habermas J. p346 *On the Cognitive Content of Morality* Proceedings of the Aristotelian Society (1996): 335-358

[136]*Ibid* p347

[137] Habermas, J. p89. 'Discourse Ethics: Notes on a Program of Philosophical Justification' in *Moral Consciousness and Communicative Action* Translated by Christian Lenhardt and Shierry Weber Nicholson (Cambridge: Polity, 1990): 43-115

[138] *Ibid.* p103.

[139] The following discussion draws on Habermas's 'On the Pragmatic, the Ethical, and the Moral Employments of Practical Reason' in *Justification and Application* translated by Ciaran Cronin (Cambridge, Massachusetts & London, England: MIT Press: 1993)

[140] Habermas, J. p3 'On the Pragmatic, the Ethical, and the Moral Employments of Practical Reason' in *Justification and Application* translated by Ciaran Cronin (Cambridge, Massachusetts & London, England: MIT Press, 1993)

[141] Habermas, J. p109 *The Theory of Communicative Action* Vol. 2 (Boston, Massachusetts: Beacon Press, 1987 [1984]): Habermas, J. p12 'On the Pragmatic, the Ethical, and the Moral Employments of Practical Reason' in *Justification and Application* translated by Ciaran Cronin (Cambridge, Massachusetts & London, England: MIT Press, 1993)

[142] Taylor, C. p247 'Reply and Rearticulation' in Philosophy in an age of pluralism: the philosophy of Charles Taylor in question. Edited by James Tully, with the assistance of Daniel M. Weinstock (Cambridge: Cambridge University Press, 1994)

[143] Habermas makes direct reference to Taylor's *Sources of the Self* in outlining the perspective of 'weak cognitivism' Habermas, J. p340 *On the Cognitive Content of Morality* Proceedings of the Aristotelian Society (1996): 335-358

[144] Kitchen, G. p317 n2 'Habermas's Moral Cognitivism' *Proceedings from The Aristotelian Society* Vol.97, Issue 3: 317 -324

[145] Habermas traces the 'linguistic turn' in metaphysics and epistemology to Wilhelm von Humboldt. "As Habermas sees matters, the linguistic turn has required all social theory ever since to cope with the idea that language "constitutes the world"." Michelman, F. I, p255 'Morality, Identity and "Constitutional Patriotism"' in *Ratio Juris.* Vol. 14 No. 3 (September 2001): 253-271

[146] Honneth, A. 'Grounding Recognition: A Rejoinder to Critical Questions' *Inquiry,* Vol. 45, No. 4 (December 2002): 463-478

[147] *Ibid.*

[148] Michelman, F. I 'Morality, Identity and "Constitutional Patriotism"' in *Ratio Juris.* Vol. 14 No. 3 (September 2001): 253-271

[149] Taylor, C. p33 'Language and Society' in *Communicative Action: Essays on Jurgen Habermas's 'The Theory of Communicative Action'.* Edited by Axel Honneth and Hans Joas and Translated by Jeremy Gaines and Doris L. Jones (Cambridge: Polity, 1991): 23-35

[150] Taylor argues that Habermas adopts a 'Weberian derived variant' of the claim that modernity can be interpreted as the growth of reason. Taylor, C. p90 'Inwardness and the Culture of Modernity' *Philosophical Interventions in the Unfinished Project of Modernity* (eds.) Axel Honneth, Thomas McCarthy, Claus Offe and Albrecht Wellmer. Translations by William Rehg (Cambridge, Massachusetts: MIT press, 1992): 88-110

[151] Young, I. *Justice and The Politics of Difference* (Princeton, New Jersey: Princeton University Press, 1990): Cooke, M. 'Habermas and Consensus' *European Journal of Philosophy* 1:3 (1993): 247-267

[152] Rescher, N. p46 *Pluralism and the Demand For Consensus* (Oxford: Clarendon Press, 1993)

[153] Habermas, J. p.39 'A Genealogical Analysis of the Cognitive Content of Morality' *Inclusion of the Other* Edited by Ciaran Cronin and Pablo De Greiff (Cambridge: Polity, 1998)

[154] *Ibid.* p39

[155] *Ibid.* p39

[156] Cooke, M. 'Habermas and Consensus' *European Journal of Philosophy* 1:3 (1993): 247-267

[157] Rescher, N. p196 *Pluralism and the Demand For Consensus* (Oxford: Clarendon Press, 1993)

[158] Young, I. M 118 *Justice and the Politics of Difference* (Princeton, New Jersey: Princeton University Press, 1990) and pp122-3 'Communication and the Other: Beyond Deliberative Democracy' in Benhabib, S. (ed) *Democracy and Difference* (Princeton: Princeton University Press, 1996): 120-135

[159] Young, I. M. p123 'Communication and the Other: Beyond Deliberative Democracy' in Benhabib, S. (Ed) *Democracy and Difference* (Princeton: Princeton University Press, 1996): 120-135

[160] Cooke, M. p258 'Habermas and Consensus' *European Journal of Philosophy* 1:3 (1993): 247-267

[161] Rescher, N. p194 *Pluralism and the Demand For Consensus* (Oxford: Clarendon Press, 1993)

[162] Young, I. M 105 *Justice and the Politics of Difference* (Princeton, New Jersey: Princeton University Press, 1990)

[163] Taylor, C. p31 'Language and Society' in *Communicative Action: Essays on Jurgen Habermas's 'The Theory of Communicative Action'.* Edited by Axel Honneth and Hans Joas and Translated by Jeremy Gaines and Doris L. Jones (Cambridge: Polity, 1991): 23-35

[164] Young, I. M 115 *Justice and the Politics of Difference* (Princeton, New Jersey: Princeton University Press, 1990)

[165] Müller, J. W. p104 *Another Country, German Intellectuals, Unification and National Identity* New Haven: Yale University Press, 2000)

[166] Wellmer, A. p27 *Endgames* (Oxford: Polity Press, 1997)

Chapter Five

[1] Baynes, K. p201 'Democracy and the *Rechsstaat:* Habermas's *Faktizität und Geltung'* in *Cambridge Companion to Habermas* (Cambridge: Cambridge University Press, 1995): 201-232

[2] Lessnoff, M. p290 'Jürgen Habermas: Discourse Ethics and Democracy' in *Political Philosophers of the Twenty First Century:* 269-295

[3] Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996); Habermas, J. *The Inclusion of the Other* Edited by C. Cronin and P. De Grieff (Cambridge MA: MIT Press, 1998); Habermas J. 'Constitutional Democracy: A Paradoxical Union of Contridictory Principles?' in *Political Theory* Volume 29, No. 6 (December 2001): 766-781

[4] Habermas, J. p242 'A Conversation about Questions of Political Theory' in *Discourse and Democracy* Edited by René von Schomberg and Kenneth Baynes (New York: State University of New York Press, 2002): 241-258

[5] Habermas, J. p450 'Further Reflections on the Public Sphere' Translated by Thomas Burger in Craig Calhoune (ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

[6] William Rehg suggests that 'Between Facticity and Validity' would be a more literal translation of Habermas's treatise on law and constitutional democracy *Fakitztät und Geltung* originally published in Germany in 1992. Rehg, W. pxi 'Translator's Introduction' in Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[7] Rehg, W. pxi 'Translator's Introduction' in Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[8] Habermas, J. p89, 448, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996) & Habermas, J. p242 'A Conversation about Questions of Political Theory' in *Discourse and Democracy* Edited by René von Schomberg and Kenneth Baynes (New York: State University of New York Press, 2002): 241-258

[9] Habermas, J. p95 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[10] Habermas, J. p102 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996) & Habermas, J. p4. 'Three Normative Models of Democracy' in *Constellations* Volume 1, No 1, (1994): 1-10. Compare Vernon, R. p 60 *Political Morality: a theory of liberal democracy* (London and New York: Continuum, 2001)

[11] Habermas, J. p767 'Constitutional Democracy: A Paradoxical Union of Contradictory Principles?' in *Political Theory* Volume 29, No. 6 (December 2001): 766-781

[12] *Ibid.* p779

[13] Habermas, J. p252 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[14] Habermas, J. p779 'Constitutional Democracy: A Paradoxical Union of Contradictory Principles?' in *Political Theory* Volume 29, No. 6 (December 2001): 766-781

[15] *Ibid.* p779

[16] Habermas, J. p253 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[17] Habermas, J. p779 'Constitutional Democracy: A Paradoxical Union of Contradictory Principles?' in *Political Theory* Volume 29, No. 6 (December 2001): 766-781

[18] Habermas, J. p41 'A Geneological Analysis of the Cognitive Content of Morality' *Inclusion of the Other* Edited by Ciaran Cronin and Pablo De Greiff (Cambridge: Polity, 1998)

[19] Habermas, J. p252 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[20] Habermas, J. p7. 'Three Normative Models of Democracy' in *Constellations* Volume 1, No 1, (1994): 1-10 and Habermas, J. p771 'Constitutional Democracy' in *Political Theory* Volume 29, No. 6 (December 2001): 766-781

[21] Habermas, J. p780 'Constitutional Democracy' in *Political Theory* Volume 29, No. 6 (December 2001): 766-781

[22] *Ibid.* p771

[23] Habermas J. p347 *On the Cognitive Content of Morality* Proceedings of the Aristotelian Society (1996): 335-358 and Habermas, J. p66 'Discourse Ethics: Notes on a Program of Philosophical Justification' in *Moral Consciousness and Communicative Action* Translated by Christian Lenhardt and Shierry Weber Nicholsen (Cambridge: Polity, 1990): 43-115

[24] The universalization principle states that: "a norm is valid when the foreseeable consequences and side effects of its general observance for the interests and value orientations of *each individual* could be freely accepted *jointly* by all concerned." Habermas J. p354 *On the Cognitive Content of Morality* Proceedings of the Aristotelian Society (1996): 335-358

[25] Habermas, J. p777 'Constitutional Democracy: A Paradoxical Union of Contradictory Principles?' in *Political Theory* Volume 29, No. 6 (December 2001): 766-781

[26] Habermas, J. p 26 'Citizenship and National Identity' in *The Condition of Citizenship* Edited by Bart van Steenberg (London: Sage, 1994): 20-35

[27] *Ibid. p26*

[28] Habermas, J. p55-6 'Popular Sovereignty as Procedure' in *Deliberative Democracy: Essays on Reason and Politics* Edited by James Bohman and William Rehg (Cambridge, Massachusetts and London, England: The MIT Press, 1997): 35-65

[29] *Ibid.* p54

[30] *Ibid.* p54

[31] Peters, B. *Die Integration moderner Gesellschafen* (Frankfurter am Main, 1993), see Habermas J. p 354 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[32] Flynn, J. p439-40 'Communicative Power in Habermas's Theory of Democracy' *European Journal of Political Theory* Vol. 3, No. 4 (October 2004): 433-454

[33] Ferree, M. M; Gamson, W.A; Gerhards, J; and Rucht, D. p300 'Four models of the public sphere in modern democracies' in *Theory and Society* Vol 31/3 (June 2002): 289-324

[34] Ferree, M.M; Gamson, W.A; Gerhards, J; and Rucht, D. p300 'Four models of the public sphere in modern democracies' in *Theory and Society* Vol 31/3 (June 2002): 289-324 and Leet, M. p688 'Democracy and the Individual: Deliberative and existential negotiations' in *Philosophy and Social Criticism* Vol 29 no. 6 (2003): 681-702

[35] Habermas, J. p56 'Popular Sovereignty as Procedure' in *Deliberative Democracy: Essays on Reason and Politics* Edited by James Bohman and William Rehg (Cambridge, Massachusetts and London, England: The MIT Press, 1997): 35-65 Habermas, J. p147 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[36] Schecter, D. p8 *Sovereign States or Political Communities? Civil Society and Contemporary Politics* (Manchester and New York: Manchester University Press, 2000)

[37] Habermas, p461 *Postscript* in Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[38] Bianchin, M. p648 'Reciprocity, individuals and community: Remarks on phenomenology, social theory and politics' *Philosophy and Social Criticism* Vol. 29, No. 6 (2003): 631-654

[39] Mark Warren points out that it is this fairly minimal meaning of consensus that is required by Habermas's discourse theory of democracy, "Habermas does not argue that we are necessarily motivated toward political consensus". Warren, M. p180-181 'The Self in Discursive Democracy' in White, S. K. (Ed.) *The Cambridge Companion to Habermas* (Cambridge: Cambridge University Press, 1995): 167-200

[40] *Ibid.* p171

[41] Habermas, J. p408 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' Translated by Ciaran Cronin in *Public Culture* 10/2 (1998): 397-416.

[42] Habermas draws upon the ideas of Ulrich Preuss to develop a conception of the constitution as a "fallible learning process through which a society gradually overcomes its ability to engage in normative reflection on itself" see Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[43] Habermas, J. p130 'Struggles for Recognition in Constitutional States', *European Journal of Philosophy 1:2* (1993): 128-155

[44] *Ibid.* p132

[45] *Ibid.* p142

[46] *Ibid.* p132

[47] Habermas, J. p852 'Multiculturalism and the Liberal State' in *Stanford Law Review* 47/ 5 (1995): 849-853

[48] Habermas, J. (1993) p133 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[49] *Ibid.* p133

[50] Habermas, J. p150 'A Conversation about Questions of Political Theory' in *A Berlin Republic: Writings on Germany* Translated by Peter Uwe Hohendahl: 131-158 compare Habermas, J. p141 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[51] Habermas acknowledges that this will frequently entail that additional compensatory measures, such as legal insurance or legal aid, and arbitration boards will be required to enable the access of vulnerable persons to legal representation. Habermas, J. p441 *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* Translated by William Rehg (Cambridge: Polity, 1996)

[52] Habermas, J. p409 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' Translated by Ciaran Cronin in *Public Culture* 10/2 (1998): 397-416.

[53] *Ibid.* p409

[54] Habermas, J. p850 'Multiculturalism and the Liberal State' in *Stanford Law Review* 47/ 5 (1995): 849-853

[55] Habermas, J. p141 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[56] Habermas, J. p17n17 'Religious Tolerance—The Pacemaker of Cultural Rights' in *Philosophy* 79 (2004): 5-18

[57] Simpson, L.C. p334 'Critical Theory and the 'Politics of Recognition' in Hahn, L. E (eds.) *Perspectives on Habermas* (Chicago, Illinois: Open Court, 2000)

[58] Habermas, J. p850 'Multiculturalism and the Liberal State' in *Stanford Law Review* 47/ 5 (1995): 849-853

[59] Habermas, J. (1993) p142 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[60] see 'Multiculturalism and the Liberal State' *Stanford Law Review* 47/ 5 (1995): 849- 853 and 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[61] Though he credits Jeff Spinner with having offered a similarly schematic account. See Spinner, J. *The Boundaries of Citizenship: Race, Ethnicity and Nationality in the Liberal State* (Baltimore: John Hopkins University Press, 1994) Kymlicka, W. p50n.1 *Politics in the Vernacular* (Oxford: Oxford University Press, 2001)

[62] Kymlicka, W. p50n.1 *Politics in the Vernacular* (Oxford: Oxford University Press, 2001)

[63] Habermas, J. p128 *Between Facts and Norms* (Cambridge: Polity, 1997) and Habermas, J. p138 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[64] Habermas, J. p253 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992): As was described in the previous chapter, in pragmatic discourses the will is already fixed by desires or preferences: there is no recourse to a general will. The appropriate response of practical reason here is to consider the issue at hand a matter of "making a rational choice of means in the light of fixed purposes or of the rational assessment of goals in the light of existing preferences." Habermas, J. p3 'On the Pragmatic, the Ethical, and the Moral Employments of Practical Reason' in *Justification and Application* translated by Ciaran Cronin (Cambridge, Massachusetts & London, England: MIT Press, 1993)

[65] Habermas, J. p140 *Between Facts and Norms* (Cambridge: Polity, 1997) and Habermas, J. p138 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[66] Habermas, J. p1492 'Reply to Symposium Participants' in *Cardozo Law Review,* Vol 17 (1996): 1477-1557

[67] Habermas, J. (1993) p139 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[68] *Ibid.* p139

[69] *Ibid.* p253

[70] For instance by Rawls who, as we have seen, simply assumes a "'self sufficient', bounded society 'possessing a more or less complete culture'" as the starting point for his theory of justice. Rawls, J. p457 *Political Liberalism* (New York: Columbia University Press: 1993) Quoted in Archard, D. p155 'Nationalism and political theory' in O'Sullivan N. (Ed) *Political Theory in Transition* (London and New York: Routledge, 2000): 155-171

[71] Taylor, C. p178 'Cross-Purposes: The liberal-communitarian debate', in 'Cross-Purposes: The Liberal Communitarian Debate' in N. Rosenblum (ed.) *Liberalism and the Moral Life* (Cambridge, MA: Harvard University Press, 1989): 159-182 Quoted in Habermas, J. p 27 'Citizenship and National Identity' in *The Condition of Citizenship* Edited by Bart van Steenberg (London: Sage, 1994): 20-35

[72] Habermas, J. p76 *The Postnational Constellation: Political Essays* Translated, Edited and with an Introduction by Max Pensky (Cambridge: Polity, 2004)

[73] Sternberger, D. 'Verfassungspatriotismus' *Frankfurter Allgemeine Zeitung* (23rd May 1979)

[74] Turner, C. p297 'Jürgen Habermas. European or German?' *European Journal of Political Theory* Volume 3, No. 3 (July 2004): 293-314

[75] Müller, J-W. p94. *Another Country: German Intellectuals, Unification and National Identity* (New Haven: Yale University Press, 2000)

[76] Habermas, J. 'Historical Consciousness and Postraditional Identity' in *The New Conservatism* (Cambridge: Mass. MIT Press, 1989)

[77] O'Sullivan, N. p113 *European Political Thought Since 1945* (Houndmills, Basingstolke: Palgrave MacMillan, 2004)

[78] Müller, J-W. p96. *Another Country: German Intellectuals, Unification and National Identity* (New Haven: Yale University Press, 2000). Here Müller is drawing on sentiments expressed by Karl-Otto Apel whom he describes as Habermas's "philosophical soul-mate."

[79] Habermas, J. p 27-28 'Citizenship and National Identity' in *The Condition of Citizenship* Edited by Bart van Steenberg (London: Sage, 1994): 20-35

[80] Habermas, J. p409 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' Translated by Ciaran Cronin in *Public Culture* 10/ 2 (1998): 397-416.

[81] Habermas, J. p77 *The Postnational Constellation: Political Essays* Translated, Edited and with an Introduction by Max Pensky (Cambridge: Polity, 2004)

[82] Habermas, J. p850 'Multiculturalism and the Liberal State', *Stanford Law Review* 47/ 5 (1995): 849- 853

[83] *Ibid.* p851

[84] For a more extended discussion of this point see Cohen, J 'Changing Paradigms of Citizenship and the Exclusiveness of the Demos' *International Sociology* Vol.14, No. 3 (1999): 245-268

[85] Michelman, F.I 'Constitutional Authorship' in Alexander, L. (Ed) *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998): 64-98

[86] Michelman, F.I. 'Law's Republic' *Yale Law Journal* Vol. 97 (1988)

[87] Habermas, J. 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' Translated by Ciaran Cronin in *Public Culture* 10/ 2 (1998): 397-416.

[88] Scruton offers a defence of nationalism from a conservative perspective. Scruton, R. *In Defence of Nation* in Clark, J. C. D. *Ideas and Politics in Modern Britain* (London: Macmillan, 1990): David Miller, from a liberal perspective, Miller, D. *Citizenship and National Identity* (Cambridge: Polity: 2000) and Michael Walzer from a more communitarian standpoint 'Passions and Politics' in *Philosophy and Social Criticism* Vol. 28. No. 6 (2002): 617-633

[89] Kymlicka, W. p26 *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship* (Oxford: Oxford University Press, 2001)

[90] Habermas J. p1496 'Reply to Symposium Participants' in *Cardozo Law Review,* Vol 17, 1996 pp 1477-1557 and Habermas, J. p406 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' Translated by Ciaran Cronin in *Public Culture* 10/ 2 (1998): 397-416.

[91] Habermas, J. p115 *Inclusion of the Other* Edited by C. Cronin and P. De Grieff (Cambridge MA: MIT Press, 1998);

[92] Craig Calhoune has suggested that Habermas has "tends to equate all nationalism with ethnic nationalism" and that this "leads him to neglect the importance of other nationalist imaginaries to the nurturance of democratic politics." p151 'Imagining Solidarity: Cosmopolitanism,

Constitutional Patriotism and the Public Sphere' in *Public Culture* 14/ 1 (2002): 147-171. However, Habermas does point to Switzerland and the U.S.A as examples of states that have developed national political cultures that are inclusive of the different forms of life that must co-exist within a multicultural society. Habermas, J. p27 'Citizenship and National Identity' in Edited by Bart van Steenberg (London: Sage, 1994): 20-35

[93] Kymlicka, W. p25 *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship* (Oxford: Oxford University Press, 2001)

[94] *Ibid.* p245

[95] Habermas, J. p27 'Citizenship and National Identity' in Edited by Bart van Steenberg (London: Sage, 1994): 20-35

[96] Taylor, C. p142 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (ed.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[97] Barry, B. p129-130 'The Limits of Cultural Politics' in Clarke, D. M & Jones, C. *The Rights of Nations* (Cork: Cork University Press, 1999)

[98] These definitions of strong and weak identifications are borrowed from Alexander Kaufman, but given a different orientation and application here. Kaufman, A. p807. 'Hegel and the Ontological Critique of Liberalism' *American Political Science Review* Vol. 91, No. 4 (December 1997)

[99] Taylor, C. p165 'Cross-Purposes: The Liberal Communitarian Debate' in *Liberalism and the Moral Life,* ed. N. Rosenblum (Cambridge, MA: Harvard University Press, 1989) Quoted in Kaufman, A. p807. 'Hegel and the Ontological Critique of Liberalism' *American Political Science Review* Vol. 91, No. 4, December 1997: Compare Taylor, C. p161 'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (ed.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

[100] Habermas, J. p54 'Popular Sovereignty as Procedure' in *Deliberative Democracy: Essays on Reason and Politics* Edited by James Bohman and William Rehg (Cambridge, Massachusetts and London, England: The MIT Press, 1997): 35-65

[101] Habermas, J. p1494 'Reply to Symposium Participants' in *Cardozo Law Review,* Vol 17 (1996): 1477-1557

[102] E.g Beitz, C.' Cosmopolitan ideals and national sentiment' *Journal of Philosophy* vol. 80 (1983): 591-600

[103] Habermas, J. p1494 'Reply to Symposium Participants' in *Cardozo Law Review,* Vol 17 (1996): 1477-1557

[104] McCarthy, T. 123 'Legitimacy and Diversity: Dialectical Reflections on Analytical Distinctions' in Rosenfeld, M. & Arato, A. *Habermas on Law and Democracy* (Berkley & Los Angeles, California: University of California Press, 1998)

[105] Habermas, J. p14 'Religious Tolerance—The Pacemaker of Cultural Rights' in *Philosophy* 79 (2004): 5-18

[106] Warren, M. p178 'The Self in Discursive Democracy' in White, S. K. (Ed.) *The Cambridge Companion to Habermas* (Cambridge: Cambridge University Press, 1995): 167-200

[107] *Ibid. p178*

[108] Habermas Globalism, p4 Ideology and Traditions an interview with Johann P. Arnason in *Thesis Eleven,* Number 63, November (2000): 1-10

[109] Habermas, J. p774 'Constitutional Democracy, A paradoxical Union of Contradictory Principles?' in *Political Theory,* Vol. 29 No. 6 (December 2001): 766-781

[110] Arendt, H. p161 *On Revolution* (Penguin: London and New York, 1990)

[111] *Ibid.* p163

[112] Habermas, J. p128 'Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism' in *Journal of Philosophy* Volume XCII, No. 3. (March 1995): 109- 131.

[113] Freeman, S. 'Deliberative Democracy: A Sympathetic Comment' in *Philosophy & Public Affairs,* 29, no. 4. (2000): 283-418

[114] Michelman, F.I 'Constitutional Authorship' in Alexander, L. (Ed) *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998): 64-98 Michelman, F. I "How Can the People Ever Make the Laws: A Critique of Deliberative Democracy' in Bohman, J. and Rehg, W. (ed.) *Deliberative Democracy* (Cambridge, Massachusetts: Cambridge University Press, 1997): 145-172

[115] Michelman, F.I p74 'Constitutional Authorship' in Alexander, L. (Ed) *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998): 64-98

[116] *Ibid.* p91

[117] Arendt, H. p162 *On Revolution* (Penguin: London and New York, 1990)

[118] *Ibid.* p163

[119] Rousseau, J-J p190 'The Social Contract' in *The Social Contract and Discourses* Translated and introduced by G. D. H. Cole (London: Everyman, 1993)

[120] Arendt. H. p175 (Penguin: London and New York, 1990): Arendt, H. p245 *The Human Condition* (Chicago & London: University of Chicago Press, 1998)

[121] Arendt, H. 244-245 *The Human Condition* (Chicago & London: University of Chicago Press, 1998)

[122] Habermas, J. p774 'Constitutional Democracy, A Paradoxical Union of Contradictory Principles?' in *Political Theory,* Vol. 29, No. 6 (December 2001): 766-781

[123] *Ibid.* p774

[124] *Ibid.* p774

[125] *Ibid.* p774

[126] Honig, B. p797 ' Dead Rights, Live Futures. A Reply to Habermas's "Constitutional Democracy". In *Political Theory* Vol. 29, No. 6 (December 2001): 792-805

[127] Habermas, J. pp 6-7 'Religious Tolerance—The Pacemaker for Cultural Rights' *Philosophy* 79 (2004): 5-18

[128] Habermas J. p291 'Discourse Ethics: Notes on a Program of Philosophical Justification.' In *Moral Discourse and Practice- Some Philosophical Approaches* Edited by S. Darwell, A. Gibband and P Railton (New York: OUP, 1997): 287-301 and in Habermas, J. p65 *Moral Consciousness and Communicative Action* (Cambridge: Polity Press, 1990) and Habermas, J. p7 'Religious Tolerance—The Pacemaker for Cultural Rights' *Philosophy* 79 (2004): 5-18

[129] Habermas, J. p1481 'Reply to Symposium Participants' in *Cardozo Law Review,* Vol 17 (1996): 1477-1557

[130] Habermas, J. p131 'Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism' in *Journal of Philosophy* Volume XCII, No. 3. (March 1995): 109- 131

[131] Ferrara, A. p784. 'On Boats and Principles: Reflections on Habermas's "Constitutional Democracy"' in *Political Theory* Vol. 29, No. 6 (December 2001): 782-791.

[132] *Ibid.* p784

[133] Habermas, J. p768 'Constitutional Democracy, A Paradoxical Union of Contradictory Principles?' in *Political Theory,* Vol. 29, No. 6 (December 2001): 766-781

[134] Habermas, Jürgen p199 'Morality and Ethical Life' in *Moral Consciousness and Communicative Action* (Cambridge: Polity Press, 1990)

[135] *Ibid.* p199

[136] Habermas, J. p199 'Morality and Ethical Life' in *Moral Consciousness and Communicative Action* (Cambridge: Polity Press, 1990)

[137] Habermas, J. p97 *Between Facts and Norms* (Cambridge: Polity, 1996)

[138] Habermas, J. p42. 'A Genealogical Analysis of the Cognitive Content of Morality' *Inclusion of the Other* Edited by Ciaran Cronin and Pablo De Greiff (Cambridge: Polity, 1998)

[139] Cooke, M. p258 'Authenticity and Autonomy, Taylor, Habermas and the Politics of Recognition' in *Political Theory* Vol. 25, No.2 (April 1997): 258-288

[140] Habermas draws on Kohlberg's account of moral development which traces moral 'learning' through pre-conventional, conventional and post-conventional stages as a psychological theory that lends credibility to his own account of social evolution which is presented in terms of 'rationalization'. Habermas, J. *Communication and the Evolution of Society* Translated by Thomas McCarthy (Boston MA: Beacon Press, 1979): 69-129 See also Habermas. J 'Moral Consciousness and Communicative Action' in *Moral Consciousness and Communicative Action* (Cambridge: Polity Press, 1990): 116-195

[141] see 'Multiculturalism and the Liberal State' *Stanford Law Review* 47/ 5 (1995): 849- 853 and 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

[142] Habermas, J. p144 'Struggles for Recognition in Constitutional States' *European Journal of Philosophy* 1/2 (1993): 128-155

[143] Habermas, J. 'Religious Tolerance—The Pacemaker for Cultural Rights' *Philosophy* 79 (2004): 5-18

[144] *Ibid.* p7-8

[145] Habermas, J. p851 'Multiculturalism and the Liberal State', *Stanford Law Review* 47/ 5 (1995): 849-853

[146] Habermas, J. p8-9 'Religious Tolerance—The Pacemaker of Cultural Rights' in *Philosophy* 79 (2004): 5-18

[147] Habermas, J. p52 'Remarks on Discourse Ethics' in *Justification and Application* (Cambridge, Massachusetts & London, England: MIT Press, 1993)

[148] Habermas, J. p200 *Autonomy and Solidarity: Interviews with Jürgen Habermas* (Revised Edition) Peter Dews (London and New York: Verso, 1992)

[149] Habermas, J p127-128 *Justification and Application* translated by Ciaran Cronin (Cambridge, Massachusetts & London, England: MIT Press, 1993)

[150] Michelman, F. I. p270 'Morality, Identity and "Constitutional Patriotism"' *Ratio Juris* Vol. 14, No. 3 (September 2001): 253-71

[151] Connolly, W. p162 *Identity/Difference: Democratic Negotiations of Political Paradox* Expanded Edition (Minneapolis/ London: University Of Minnesota Press: 2002)

[152] Beiner, R. *Political Judgement* (London: Methuen, 1983), Blaug, R. 'Citizenship and Political Judgement: Between Discourse Ethics and *PHRONESIS* in *Res Publica* 6 (2000): 179-198 Blaug, R. Chapter 6. *Democracy Real and Ideal: Discourse Ethics and Radical Politics* (Albany: State University of New York Press, 1999)

[153] Blaug, R. 'Citizenship and Political Judgement: Between Discourse Ethics and *PHRONESIS* in *Res Publica* 6 (2000): 179-198

[154] *Ibid.* p 183

[155] Blaug, R. p 191 'Citizenship and Political Judgement: Between Discourse Ethics and *PHRONESIS* in *Res Publica* 6 (2000) pp179-198 & Blaug, R. p108-109 *Democracy Real and Ideal: Discourse Ethics and Radical Politics* (Albany: State University of New York Press, 1999)

Conclusion

[1] Nietzsche p357. *The Gay Science* Trans. W. Kaufmann (New York, Random House, 1974)

[2] Vernon, R. *Political Morality, a theory of liberal democracy* (London and New York: Continuum, 2001)

[3] Though both make claims about the character of human agency. In the first part of *Sources of the Self* Taylor attempts to define the 'transcendental conditions' of human agency which he claims have context-transcendent validity. Compare Taylor, C p70 *Philosophical Arguments* (Cambridge, Massachusetts and London, England: Harvard University Press, 1995). Habermas's conception of a society whose practices and norms are tested by discourse incorporates a strong conception of the human agent as a rational actor with competencies to raise and redeem validity claims. See, Habermas, J. *The Theory of Communicative Action. Vol. 1 Reason and rationalization of Society* (Boston, Massachusetts: Beacon Press, 1987)

[4] Taylor, C. p25 PR

[5] McGuigan, J. p135 *Culture and the Public Sphere* (London: Routledge, 1996) see also Giddens, A. *Modernity and Self-Identity – Self and Society in the Late Modern Age* (Cambridge: Polity, 1991)

[6] I owe this way of putting it to Glen Newey see his *After Politics: The Rejection of Politics in Contemporary Liberal Philosophy* (Houndmills, Baskingstoke: Palgrave Macmillan, 2001)

[7] This approach often identifies itself as 'agonistic' and often draws on the philosophy of Hannah Arendt. (James Tully, 'The agonic freedom of citizens' *Economy and Society* 28/ 2 (May 1999):161-182, Bonnie Honig**,** *Political Theory and the Displacement of Politics* (Ithaca & London: Cornell University Press: 1993) William Connolly, who is also identified with this approach draws on Neitzsche. Connolly, W. *Identity/Difference: Democratic Negotiations of Political Paradox* Expanded Edition (Minneapolis/ London: University Of Minnesota Press: 2002).

[8] Tully, J. P175 Strange multiplicity, Constitutionalism in an age of Diversity (Cambridge: Cambridge University Press, 1995)

[9] Tully, J. p477 'Struggles over Recognition and Distribution' *Constellations* 17/4 (2000): 469-482

[10] Brady, J. S. 'No Contest? Assessing the agonistic critiques of Jürgen Haberma's theory of the public sphere' *Philosophy and Social Criticism* Vol.30, No. .3: (2004): 331-354

[11] Arendt, H. p387 'Understanding and Politics' *Partisan Review,* Vol, 20 (1953): 377-392

[12] *Ibid.* p387

BIBLIOGRAPHY

Abbey, R. *Charles Taylor* (Tedington: Acumen, 2000)

Ackerman, B. *We the People I: Foundations* (Cambridge, Mass.: Harvard University Press, 1991)

We the People II: Transformations (Cambridge, Mass: Harvard University Press, 1992)

Andrews, G. (ed.) *Citizenship* (London: Lawrence and Wishart, 1991)

Arato, A. 'Dilemmas Arising from the Power to Create Constitutions in Eastern Europe' in Rosenfeld, M. (Ed.) *Constitutionalism, Identity, Difference and Legitimacy* (Durham and London: Duke University Press, 1994): 165-194

Archard, D. 'Nationalism and political theory' in O'Sullivan N. (Ed) *Political Theory in Transition* (London and New York: Routledge, 2000)

'Political philosophy and the concept of the nation' in *Journal of Value Inquiry* Vol.29 (1995): 379-392

Arendt, H. 'Appendix: Judging' in *Life of the Mind* (San Diego, London and New York: Harcourt and Brace, 1971)

Crises in the Republic (New York: Harcourt Brace Jovanovich Inc, 1972)

On Revolution (London: Penguin, 1990)

On Violence (New York: Harcourt, Brace and World, 1970)

The Human Condition (Chicago and London: University of Chicago Press, 1998)

The Origins of Totalitarianism (San Diego, New York & London: Harcourt Inc, 1976)

'Understanding and Politics' *Partisan Review,* Vol, 20 (1953)

'What is Freedom?' in *Between Past and Future: Eight Exercises in Political Thought* (London & New York: Penguin, 1993)

Aristotle, *Nichomachean Ethics* Translated by Ross, D. (Oxford: OUP, 1980)

Armstrong, J. *The Conditions of Love: The Philosophy of Intimacy* (London: Penguin, 2003)

Bader, V. 'Citizenship and Exclusion: Radical Democracy, Community and Justice. Or What is Wrong with Communitarianism?' in *Political Theory,* Vol. 23. No. 2. (May 1995): 211-246

Barker, R. *Legitimating Identities: The Self-Presentations of Rulers and Subjects* (Cambridge: Cambridge University Press, 2001)

Barnard, F.M *Self-Direction and Political Legitimacy: Rousseau and Herder* (Oxford: Clarendon Press, 1988)

Barry, B. 'The Limits of Cultural Politics' in Clarke, D. M. and Jones, C. *The Rights of Nations* (Cork: Cork University Press, 1999)

Culture and Equality (Cambridge: Polity Press, 2001)

Baynes, K. 'Democracy and the *Rechsstaat:* Habermas's *Faktizität und Geltung'* in *Cambridge Companion to Habermas* (Cambridge: Cambridge University Press, 1995)

Beiner, R. *Political Judgement* (London: Methuen, 1983)

Theorising Citizenship (Albany: Sate University of New York Press, 1995)

Beitz, C. ' Cosmopolitan ideals and national sentiment' *Journal of Philosophy* Vol. 80 (1983)

Bellamy, R. 'Dealing with Difference: Four Models of Pluralist Politics' *Parliamentary Affairs*, Vol.53, No.1 (2000): 198-217

Liberalism and Pluralism: Towards a politics of compromise (London & New York: Routledge, 1999)

Benhabib, S. 'Critique, Norm and Utopia' (New York and Guildford, Surrey: Columbia University Press, 1986)

(Ed) *Democracy and Difference* (Princeton: Princeton University Press, 1996)

'Liberal Dialogue Versus a Critical Theory of Discursive Legitimation' in Rosenblum, N. (Ed) *Liberalism and the Moral Life* (Cambridge, Massachusetts: Harvard University Press, 1989)

The Claims of Culture: Equality and Diversity in a Global Era (Oxford & Princeton: Princeton University Press, 2002)

The Reluctant Modernism of Hannah Arendt (London & New Delhi: Sage, 1996)

Benjamin, J. *The Bonds of Love: Psychoanalysis, Feminism and the Problem of Power* (New York: Pantheon, 1988)

Berki, R. *Hegel's New Suit* in Political Studies 24 (1976)

Berlin, I. *The Crooked Timber of Humanity: Chapters in the History of Ideas* (London: John Murray Publishers, 1990)

'The Originality of Machiavelli' in *Against the Current: Essays in the History of Ideas* (London: Hogarth Press, 1979)

'Two Concepts of Liberty," in *Four Essays on Liberty* (Oxford: Oxford University Press, 1969)

Bianchin, M. 'Reciprocity, individuals and community: Remarks on phenomenology, social theory and politics' *Philosophy and Social Criticism* Vol. 29, No. 6 (2003): 631-654

Blaug, R. 'Citizenship and Political Judgement: Between Discourse Ethics and *PHRONESIS* in *Res Publica* 6(2000): 179-198

Democracy Real and Ideal: Discourse Ethics and Radical Politics (Albany: State University of New York Press, 1999)

Bohman, J. 'Participating in Enlightenment: Habermas's Cognitivist Interpretation of Democracy' in *Knowledge and Politics: Case Studies in the Relationship Between Epistemology and Political Philosophy* Edited by Marcelo Dascal and Ora Gruengard (San Francisco and London: Boulder, 1989)

Booth-Fowler, R. *Enduring Liberalism: American Political Thought since the 1960s* (Kansas: University Press of Kansas, 1999)

Brady, J. S. 'No Contest? Assessing the agonistic critiques of Jürgen Haberma's theory of the public sphere' *Philosophy and Social Criticism* Vol.30. No.3 (2004):331-354

Brink, B. van den. *The Tragedy of Liberalism: An Alternative Defence of a Political Tradition* (Albany: State University of New York Press, 2000)

Brooks, D. 'Class Politics versus Identity Politics', The Public Interest (1996)

Cahoone, L. *Civil Society: The Conservative Meaning of Liberal Politics* (Oxford: Blackwell, 2002)

Calhoune, C. 'Imagining Solidarity: Cosmopolitanism, Constitutional Patriotism and the Public Sphere' *Public Culture* 14/ 1 (2002): 147-171

'Morality Identity, and Historical Explanation: Charles Taylor on the Sources of the Self' in *Sociological Theory* 9:2 (Fall 1991): 232-263

Campbell, B. 'Paradigms Lost:--Classical Athenian Politics and Modern Myth, *History of Political Thought,* Vol.10, No.2. (Summer 1989)

Canovan, M. 'A Case of Distorted Communication; A note on Habermas and Arendt' in *Political Theory* Vol.11, No.1. (February 1983): 105-116

'Arendt, Rousseau, and Human Plurality in Politics' in *The Journal of Politics,* Vol. 45, Issue. 2 (May 1983):286-302

Nationhood and Political Theory (Cheltenham: Edward Elgar, 1996)

The People (Cambridge: Polity, 2005)

Carens, J. H. *Culture, Citizenship and Community; A Contextual Exploration of Justice as Evenhandedness* (Oxford: Oxford University Press: 2000)

Carter, A. and Stokes G. (eds.) *Liberal Democracy and its Critics* (Cambridge: Polity, 1998)

Castiglione, D. 'The Political Theory of the Constitution' in *Political Studies* XLIV (1996): 417-435

Chambers, S 'Democracy, Popular Sovereignty, and Constitutional Legitimacy' in *Constellations,* Volume 11, No. 2. (2004): 152-173

Clark, W. *Activism In the Public Sphere: Exploring the discourse of political participation* (Aldershot: Ashgate, 2000)

Cohen, J. & Arato, A. *Civil Society and Political Theory* (Cambridge: Mass: MIT Press, 1992).

Cohen, J. 'Changing Paradigms of Citizenship and the Exclusiveness of the Demos' *International SociologY* Vol.14, No. 3.(1999): 245-268

'Procedure and Substance in Deliberative Democracy' in Benhabib, S. (Ed). *Democracy and Difference* (Princeton, New Jersey: Princeton University Press, 1996)

Connolly, W. *Identity/Difference: Democratic Negotiations of Political Paradox* Expanded Edition (Minneapolis/ London: University Of Minnesota Press: 2002)

Political Theory and Modernity (Oxford: Basil Blackwell, 1988)

'The Dilemma of Legitimacy' in Nelson, J. S. *What Should Political Theory be Now?* (Albany: State of New York Press, 1983)

Cooke, M. 'Authenticity and Autonomy, Taylor, Habermas and the Politics of Recognition' in *Political Theory* Vol. 25, No.2 (April 1997): 258-288

'Habermas and Consensus' *European Journal of Philosophy* 1:3 (1993): 247-267

Cracknell, D. 'Guru of Shame advises Blair' in *Sunday Times* May 22nd 2005

D'Entrèves. A.P. *Natural Law and Introduction to Legal Philosophy* (London: Hutchinson, 1951)

Danford, J. *Wittgenstein and Political Philosophy: A Re-examination of the Foundations of Social Science* (Chicago and London: The University of Chicago Press, 1976)

Den Uyl, J. & Rasmussen, B. 'Ethical Individualism, Natural Law and the Primacy of Natural Rights' in E.F. Paul, F.D. Miller & J. Paul (Ed.) *Natural law and modern moral philosophy* (Cambridge: Cambridge University Press, 2001): 34-69

Dewey, J. 'The Future of Liberalism' in *The Journal of Political Philosophy,* Volume 32, Issue, 9 (April 25, 1935)

Dodd, N. *Social Theory and Modernity* (Cambridge: Polity, 1999)

Dossa, S. *The Public Realm and the Public Self: The Political Theory of Hannah Arendt* (Waterloo, Ontario, Canada: Wilfred Laurier University Press, 1989)

Dworkin, R. 'Rights as Trumps' in *Theories of Rights* Edited by Jeremy Waldron (New York: Oxford University Press, 1984): 153-167

Sovereign Virtue (Cambridge, Massachusetts: Harvard University Press, 2000)

Taking rights seriously (London: Duckworth, 1977)

Edgar, A. *The Philosophy of Habermas* (Chesham, Bucks: Acumen, 2005)

Eley, G. 'Nations, Publics and Political Cultures' in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994)

Eriksen, E.O. and **Weigård, J**. *Understanding Habermas: Communicative Action and Deliberative Democracy* (London: Continuum, 2003)

Etzioni, A. *From Empire to Community* (New York: Palgrave, 2004)

The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda (London: Fontana, 1995).

Faulks, K. *Citizenship* (London and New York: Routledge, 2000)

Ferrara, A. 'On Boats and Principles: Reflections on Habermas's "Constitutional Democracy"' in *Political Theory* Vol. 29, No. 6. (December 2001): 782-791

Ferree, M.M; Gamson, W.A; Gerhards, J; & Rucht, D; 'Four models of the public sphere in modern democracies' in *Theory and Society* Vol. 31/3 (June 2002): 289-324

Festenstein, M. 'Cultural Diversity and the limits of Liberalism' in O'Sullivan, N. (Ed.) *Political Theory in Transition* (London & New York: Routledge, 2000): 70-90

Negotiating Diversity: Culture, Deliberation, Trust (Cambridge: Polity, 2005)

Flynn, J. 'Communicative Power in Habermas's Theory of Democracy' *European Journal of Political Theory* Vol. 3, No. 4 (October 2004): 433-454

Forsyth, M. 'Thomas Hobbes and the Constituent Power of the People' in *Political Studies* Vol. XXIX, No.2 (1981): 191-203

Franklin, J. H *John Locke and the Theory of Sovereignty* (Cambridge: Cambridge University Press, 1978)

Fraser, N. 'From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age' *New Left Review* No.212 (July/ August 1995): 68-93

'Recognition without Ethics' in *Theory, Culture and Society* Vol. 18 (1995): 21-42

'Rethinking the Public Sphere: A contribution to the Critique of Actually Existing Democracy' in Craig Calhoune (Ed.) *Habermas and the Public Sphere* (Cambridge, Massachusetts & London: M.I.T Press, 1994).

Freeman, S. 'Deliberative Democracy: A Sympathetic Comment' in *Philosophy & Public Affairs,* 29, no. 4. (2000): 283-418

Freidman, J. 'The Politics of Communitarianism *Critical Review* 8 (1994): 297-340.

Freidrich, C.J. *Constitutional Government and Democracy* (New York: Ginn and Co., 1950).

Galeotti. A. E 'Contemporary Pluralism and Toleration' *Ratio Juris* 10/2 (June 1997): 223-235

Toleration as Recognition (Cambridge: Cambridge University Press, 2002)

Giddens, A. 'Jurgen Habermas' in Skinner, Q. *The Return of Grand Theory in the Human Sciences* (Cambridge: Cambridge University Press, 1985)

Modernity and Self-Identity – Self and Society in the Late Modern Age (Cambridge: Polity, 1991)

Gilbert, P. *Peoples, Cultures and Nations in Political Philosophy* (Edinburgh: Edinburgh University Press, 2000)

Goodin, R. 'Permissible Paternalism: Saving Smokers from Themselves', Lafollette H. (Ed.) *Ethics in Practice* (Oxford: Blackwell, 1997)

Gray, J. *Two Faces of Liberalism* (Blackwell: Oxford, 2000)

Guignon, C. B. *The Cambridge Companion to Heidegger* (Cambridge: Cambridge University Press: 1993)

Gutmann A. & Thompson D. *Democracy and Disagreement* (Cambridge, Mass: Harvard University Press: 1996)

Gutting, G. *Pragmatic Liberalism and the Critique of Modernity* (Cambridge: Cambridge University Press, 1999)

Habermas, J. 'A Conversation about Questions of Political Theory' in *A Berlin Republic: Writings on Germany,* Translated by Peter Uwe Hohendahl (Lincoln: University of Nebraska Press, 1997)

'A Conversation about Questions of Political Theory' in *Discourse and Democracy* (ed.) René von Schomberg and Kenneth Baynes (New York: State University of New York Press, 2002)

'A Reply' in (ed.) Honneth, A and Joas, H. *Communicative Action: Essays on Jürgen Habermas's Theory of Communicative Action'* Translated by Jeremy Gaines and Doris L. Jones (Cambridge: Polity Press, 1991)

Autonomy and Solidarity: Interviews with Jürgen Habermas (Revised Edition) Peter Dews (London and New York: Verso, 1992)

Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy Translated by William Rehg (Cambridge: Polity, 1996)

'Citizenship and National Identity' in *The Condition of Citizenship* (ed.) Bart van Steenberg (London: Sage, 1994)

Communication and the Evolution of Society Translated by Thomas McCarthy (London: Heinemann, 1979)

'Constitutional Democracy, A Paradoxical Union of Contradictory Principles?' in *Political Theory,* Vol. 29, No. 6 (December 2001): 766-781

'Discourse Ethics: Notes on a Program of Philosophical Justification.' In *Moral Discourse and Practice- Some Philosophical Approaches* (eds.) S. Darwell, A. Gibband and P Railton New York: Oxford University Press, 1997): 287-301

'Further Reflections on the Public Sphere' Translated by Thomas Burger in *Habermas and the Public Sphere* (ed.) Calhoune, C. (Cambridge, Massachusetts & London: M.I.T Press, 1994): 421-461

Globalism, Ideology and Traditions an interview with Johann P. Arnason in *Thesis Eleven,* Number 63. (November 2000): 1-10

'Hannah Arendt on the Concept of Power' in *Philosophical-Political Profiles.* Trans. Frederick G. Lawrence. (Cambridge: Massachusetts Institute of Technology Press, 1985): 171-187

'Hannah Arendt's Communications Concept of Power' *Social Research: An International Quarterly of the Social Sciences* (Spring 1977): 3-24

Inclusion of the Other (eds.) Ciaran Cronin and Pablo De Greiff (Cambridge: Polity Press: 1998)

Justification and Application: Remarks on Discourse Ethics Translated by Ciaran Cronin (Cambridge, Mass. MIT Press, 1991)

Legitimation Crisis Translated by Thomas McCarthy (London: Heinemann, 1976)

'Modernity—An Incomplete Project' Translated by Seyla Benhabib in *The Postmodern Culture* (ed.) Foster, H. (London: Pluto Press, 1983): 3-15

Moral Consciousness and Communicative Action Translated by Christian Lenhardt and Shierry Weber Nicholson with an introduction by Thomas McCarthy (Cambridge: Polity Press, 1990)

'Multiculturalism and the Liberal State' *Stanford Law Review* 47/ 5 (1995): 849- 853

'On Social Identity' in *Telos: A quarterly journal of radical social theory,* Number 19, (Spring 1974): 91-103

'On the Cognitive Content of Morality', *Proceedings of the Aristotelian Society* (1996): 335-358

'On the German-Jewish Heritage' *Telos* (Summer 1980): 127-131

'Popular Sovereignty as Procedure' in *Deliberative Democracy: Essays on Reason and Politics* Edited by James Bohman and William Rehg (Cambridge, Massachusetts and London, England: The MIT Press, 1997): 35-65

'Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism' *Journal of Philosophy* Vol. XCII, No. 3, (March 1995): 109-131

'Religious Tolerance—The Pacemaker of Cultural Rights' in *Philosophy* 79 (2004): 5-18

'Reply to Symposium Participants' in *Cardozo Law Review,* Vol 17 (1996): 1477-1557

'Struggles for Recognition in Constitutional States' *European Journal of Philosophy 1:2* (1993): 128-155

'The Dialectics of Rationalization': An Interview with Jürgen Habermas by Axel Honneth, Eberhard Knödler-Bunte and Arno Widman, *Telos* No. 49 (Fall 1981): 5-37

'The European Nation-State: On the Past and Future of Sovereignty and Citizenship' Translated by Ciaran Cronin in *Public Culture* 10/ 2 (1998): 397-416

The New Conservatism (Cambridge: Mass. MIT Press, 1989)

The Philosophical Discourse of Modernity Translated by Thomas MaCarthy (Cambridge, Mass: MIT Press, 1987)

The Postnational Constellation Translated and Edited by Max Pensky (Cambridge: Polity, 2004)

'The Public Sphere: An Encyclopaedia Article (1964)' Translated by Sara Lennox and Frank Lennox. in *New German Critique* Number 3: (Fall 1974): 49-55

The Structural Transformation of the Public Sphere (Cambridge: Polity, 1992).

The Theory of Communicative Action. Vol. 1 Reason and rationalization of Society (Boston, Massachusetts: Beacon Press, 1987)

The Theory of Communicative Action. Vol. 2. Lifeworld and System Translated by Thomas McCarthy (Boston, Massachusetts: Beacon Press, 1987)

Theory and Practice Translated by John Viertel (Cambridge: Polity Press, 1996)

'Three Normative Models of Democracy', *Constellations* Volume 1, No 1. (1994): 1-10

Hayek, F.A. *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960)

Heather, G.P. & Stolz, M. 'Hannah Arendt and the Problem of Political Theory' in *The Journal of Politics* Volume 41, Issue 1 (February 1979): 2-22

Hegel, G. W. F. *Phenomenology of Spirit* (Oxford: Oxford University Press: 1977 [1807])

Heidegger, M. *Being and Time* (Oxford, UK & Cambridge, USA: Blackwell, 2000)

Hittinger, R. 'Critical Study: Charles Taylor, *Sources of the Self'* in *Review of Metaphysics* 44 (September 1990): 111-130

Hobbes, T. *Leviathan* Macpherson, C. B. (ed.) (London: Penguin, 1985)

Holmes, S. 'Gag Rules and the Politics of Omission' in Elster, J. and Slagstad, R. *Constitutionalism and Democracy* (Cambridge: Cambridge University Press, 1988)

Passions and Constraint (Chicago: University of Chicago Press, 1995)

Holub, R. C. *Jürgen Habermas: Critic in the Public Sphere* (London & New York: Routledge, 1991)

Honig, B. ' Dead Rights, Live Futures. A Reply to Habermas's "Constitutional Democracy". In *Political Theory* Vol. 29, No. 6 (December 2001): 792-805

Political Theory and the Displacement of Politics (Ithaca & London: Cornell University Press: 1993).

Toward an Aqonistic Feminism' in *Feminist Interpretations of Hannah Arendt* Edited by Bonnie Honig (Pennsylvania: The Pennsylvania State University Press, 1995): 135-166

Honneth, A. 'Grounding Recognition: A Rejoinder to Critical Questions' *Inquiry* Vol. 45, No. 4 (December 2002): **463-478**

'Integrity and Disrespect: Principles of a Conception of Morality Based on a Theory of Recognition in Political Theory, Vol. 20 No. 2 (May 1992): 187-201

The Fragmented World of the Social: Essays in Social and Political Philosophy (ed.) Charles W. Wright. (Albany: State University of New York Press: 1990)

The Struggle for Recognition: The Moral Grammar of Social Conflicts Translated by Joel Anderson (Cambridge: Polity, 1995)

Honneth, A., McCarthy, T., Offe, C. & Wellmer, A. (Ed.) *Philosophical Interventions in the Unfinished Project of Enlightenment.* Translated by William Rehg (Massachusetts Institute of Technology, 1992)

Honohan, I *Civic Republicanism* (London & New York: Routledge, 2002)

Hoover, J. 'Does the Politics of Difference Need to be Freed of a Liberalism?' in *Constellations* Volume 8, No. 2 2001: 201-218

Ingram, D. 'Individual Freedom and Social Equality: Habermas's Democratic Revolution in the Social Contractarian Justification of Law' in Lewis Edwin Hahn (Chicago and La Salle, Illinois: Open Court, 2000)

Isaac, J. 'A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights' in *The American Political Science Review,* Vol. 90, Issue 1 (March 1996): 61-73

Arendt, Camus and Modern Rebellion (New Haven: Yale University Press, 1992)

Isin, E.F.& Wood, P.K. *Citizenship and Identity* (London: Sage, 1999)

Ivison, D. 'Modus Vivendi Citizenship' in McKinnon, C. and Hampsher-Monk, I. *The Demands of Citizenship* (London and New York: Continuum, 2000): 123-143

Jahanbegloo, R. (Ed.) *Conversations with Isaiah Berlin* (London: Peter Halban, 1992)

Jenkins, T. 'The museum of political correctness' in *The Independent Review* Tuesday 25th January 2005.

Johnson, P. 'Habermas's Search for the Public Sphere' *European Journal of Social Theory* Vol. 4, Issue 2. (2001): 215-236

Jung, C. 'The Burden of Culture and the Limits of Liberal Responsibility' in *Constellations* Vol. 8, No. 2, 2001: 219-235

Then I was Black: South African Political Identities in Transition (New Haven: Yale University Press, 2000)

Kalyvas, A. 'Popular Sovereignty, Democracy, and the Constituent Power' in *Constellations* Vol. 12, No.2, 2005: 223-244

Kant, I. 'An answer to the Question: What is Enlightenment?' Translated by James Schmidt in *What is Enlightenment: Eighteenth-Century Answers and Twentieth Century Questions* Edited by James Schmidt (Berkeley: University of California Press, 1996)

Kaufman, A. 'Hegel and the Ontological Critique of Liberalism' *American Political Science Review* Vol. 91, No. 4 (December 1997)

Kitchen, G. 'Habermas's Moral Cognitivism' *Proceedings from The Aristotelian Society* Vol. 97, Issue 3

Kukathas, C. 'Nationalism and Multiculturalism' in Kukathas, C & Gaus, G. F (Ed) *Handbook of Political Theory* (London: Sage, 2004)

'Liberalism and Multiculturalism: The Politics of Indifference' *Political Theory* Vol. 26 No. 5 (October 1998):686-699

Kymlicka, W. and **Norman, W**. (eds.) *Citizenship in Diverse Societies* (Oxford: Oxford University Press, 2000)

'The Ethics of Inarticularity' *Inquiry,* 34 (1991): 155-82

Liberalism, Community and Culture (Oxford: Clarendon Press, 1989)

Multicultural Citizenship: A Liberal Theory of Minority Rights (Oxford: Clarendon Press, 1995)

Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship (Oxford: Oxford University Press, 2001)

Laforest, G. Introduction, *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queens University Press, 1993)

Lamore, C. *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996)

'Review of Sources of the Self' in *Ethics* (October 1991): 158-162

Laslett, P. (Ed.) *John Locke, Two Treatises of Government* (Cambridge: CUP, 1988)

Leet, M. 'Democracy and the Individual: Deliberative and existential negotiations' in *Philosophy and Social Criticism* Vol. 29 no. 6 (2003): 681-702

'Jürgen Habermas and Deliberative Democracy' Carter, A. and Stokes G. (eds.) *Liberal Democracy and its Critics* (Cambridge: Polity, 1998): 77-97

Lefort, C. *Democracy and Political Theory,* translated by David Macey (Minneapolis: University of Minnesota Press, 1988)

Lessnoff, M. 'Jürgen Habermas: Discourse Ethics and Democracy' in Political Philosophers of the Twenty First Century (Oxford: Blackwell Publishers, 1999)
Social Contract Theory (Oxford: Blackwell, 1990)

Levy, Jacob T. *The Multiculturalism of Fear* (Oxford: Oxford University Press: 2000)

Locke, J. 'A Letter Concerning Toleration' in *Essays by John Locke* (London: Ward, Lock and Co., Limited, 18-- ?)

The Second Treatise of Government: An essay concerning the True, Original, Extent and End of Civil Government in Laslett, P. (Ed.) *John Locke, Two Treatises of Government* (Cambridge: CUP, 1988)

Love, N. S. 'What's left of Marxism' in *The Cambridge Companion to Habermas* (ed.) Stephen K. White (Cambridge: Cambridge University Press, 1995)

Macedo, S. 'Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls' in *Ethics* 105 (April 1995): 468-496

Liberal Virtues: Citizenship, Virtue and Community in Liberal Constitutionalism (Oxford: Clarendon, 1991).

MacIntyre, A. *After Virtue: A Study of Moral Theory* (Notre Dame: University of Notre Dame Press, 1992)

Dependent Rational Animals (London: Duckworth, 1999)

Markell, P. 'The Recognition of Politics: A Comment on Emcke and Tully' in *Constellations* Volume 7, No. 4 (2000): 496-506

Bound by Recognition (Princeton & Oxford: Princeton University Press, 2003)

Marshall, T.H. *Citizenship and Social Class* (1950) Reprinted in: Citizenship and Social Class; T.H. Marshall/Tom Bottomore, (London: Pluto Press, 1992)

McCarthy, T. 'Legitimacy and Diversity: Dialectical Reflections on Analytical Distinctions' in Rosenfeld, M. & Arato, A. *Habermas on Law and Democracy* (Berkley & Los Angeles, California: University of California Press, 1998)

'Complexity and Democracy, or the Seducements of Systems Theory' *New German Critique* 35 (1985): 27-63

McGuigan, J. *Culture and the Public Sphere* (London: Routledge, 1996)

Mendus, S. *Toleration and the Limits of Liberalism* (London: Macmillan, 1989)

Merquior, J.G *Rousseau and Weber: Two studies in the theory of legitimacy* (London: Routledge and Kegan Paul, 1980)

Michelman, F. I. 'Constitutional Authorship' in Alexander, L. (ed) *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998): 64-98

"How Can the People Ever Make the Laws: A Critique of Deliberative Democracy' in Bohman, J. and Rehg, W. (ed.) *Deliberative Democracy* (Cambridge, Massachusetts: Cambridge University Press, 1997): 145-172

'Law's Republic' *Yale Law Journal* Vol. 97 (1988)

'Morality, Identity and "Constitutional Patriotism"', *Ratio Juris.* Vol. 14 No. 3 (September 2001): 253-271

Mill, J.S. 'Considerations of Representative Government' in Grey, J. (Ed.) *John Stuart Mill: On Liberty and Other Essays.* (Oxford: Oxford University Press, 1991)

'On Liberty', Gray, J. (Ed.) *John Stuart Mill: On Liberty and Other Essays* (Oxford: Oxford University Press, 1991)

Miller, D. 'Bounded Citizenship' in *Cosmopolitan Citizenship* Edited by Hutchings, K. and Dannreuther, R. in *Cosmopolitan Citizenship* (Hampshire: MacMillan, 1999): 60-79

Citizenship and National Identity (Cambridge: Polity, 2000).

Milne, D. *Whither Canadian Federalism? Alternative Constitutional Futures* in Burgess, M. & Gagnon, Alain G. ed. *Comparative federalism and federation competing traditions and future directions* (Hertfordshire: Harvester Wheatscheaf, 1993): 203-226

Modood, T. 'Anti-Essentialism, Multiculturalism, and the 'Recognition' of Religious Groups' in Kymlicka, W. and Norman, W. (eds.) *Citizenship in Diverse Societies* (Oxford: Oxford University Press, 2000): 175-195

Morgan, E. S. *Inventing the People* (London and New York: W. W. Norton & Co., 1988)

Morris, P. 'Community Beyond Tradition' in *Detraditionalization: Critical Reflections on Authority and Identity* (eds.) Paul Heelas, Scott Lash and Paul Morris. (Oxford, UK and Cambridge, Mass: Blackwell, 1996): 223-249

Mouffe, C. *The Democratic Paradox* (London & New York: Verso, 2000)

Müller, J-W. 'Portrait- Jürgen Habermas', *Prospect* (March 2001): 44-48

Another Country: German Intellectuals, Unification and National Identity (New Haven: Yale University Press, 2000)

Mullhall, S. & Swift, A. *Liberals and Communitarians* (Oxford, UK and Cambridge, U.S.A: Blackwell, 1992)

Murdoch, I. *The Sovereignty of Good* (London: Routledge, 1970)

Nagel, T. 'Moral Conflict and Political Legitimacy' in Raz, J. (Ed.) *Authority* .(Oxford: Blackwell, 1990)

Nelson, W. N. *On Justifying Democracy* (London, Boston and Henley: Routledge Kegan Paul, 1980)

Newey, G. *After Politics: The Rejection of Politics in Contemporary Liberal Philosophy* (Houndmills, Baskingstoke: Palgrave Macmillan, 2001)

Nicholson, L. 'To be or not to be: Charles Taylor and the Politics of Recognition' *Constellations* Volume 3, No. 1 (1996): 1-16

Nietzsche, F. *The Gay Science* Trans. W. Kaufmann (New York, Random House, 1974)

O'Sullivan, N. 'Difference and the Concept of the Political in Contemporary Political Philosophy' *Political Studies* XLV (1997) 739-754

European Political Thought Since 1945 (Houndmills, Basingstoke: Palgrave MacMillan, 2004)

'Hellenic Nostalgia and Industrial Society' in *Contemporary Political Philosophers* (ed.) Crespigny, A. and Minogue, K. (London: Methuen, 1976)

(ed.) *Political Theory in Transition* (London and New York: Routledge, 2000)

'The Political and the Concept of the Public' in *Studies in Humanities and Social Sciences,* Vol. IV, No. 2 (1997): 1-22

Offe, C. '"Homogeneity" and Constitutional Democracy: Coping with Identity Conflicts through Group Rights' in *The Journal of Political Philosophy* Vol. 6, No. 2. (1998): 113-141

Parekh, B. *Rethinking Multiculturalism* (London: MacMillan Press, 2000)

Runneymede Trust Commission on the Future of Multi-Ethnic Britain *The Future of Multi-Ethnic Britain* (London: The Runneymede Trust, 2000)

Superior People: The Narrowness of liberalism from Mill to Rawls' *Times Literary Supplement* (25th February 1994): 11-13

Parry, G. 'Trust, Distrust and Consensus' in *British Journal of Political Science* Vol. 6. (1976): 129-142

Paul, E. F., Miller, F. D. & Paul, J. (Ed.) *Natural law and modern moral philosophy* (Cambridge: Cambridge University Press, 2001)

Pateman, C. *Participation and Democratic Theory* (Cambridge: CUP, 1970)

Peritz, D. 'Toward a Deliberative Democratic Response to Multicultural Politics: Post-Rawlsian Reflections on Benhabib's *The Claims of Culture, Constellations* Vol. 11, No.2 (2004): 266-290

Peters, B. *Die Integration moderner Gesellschafen* (Frankfurter am Main, 1993)

Philips, A. *The Politics of Presence* (Clarendon Press: Oxford, 1995)

Pitkin, H. 'Representation and Democracy: Uneasy Alliance' in *Scandinavian Political Studies,* Vol. 27 No. 3 (2004): 335-342

Polanyi, M. *The Tacit Dimension* (Garden City: Doubleday, 1966)

Presby, G. M. 'Founding a New Government in Iraq' *Constellations* Vol. 12, No. 4 (2005): 521-541

Rawls, J. *A Theory of Justice* (Oxford: Oxford University Press, 1971)

Political Liberalism (New York: Columbia University Press, 1993)

'The idea of Public Reason Revisited' *The University of Chicago Law Review* Vol. 64, No. 3. (Summer 1997): 765-807

Rayner, J. 'Therapy for an imaginary invalid: Charles Taylor and the malaise of modernity' in *History of the Human Sciences* Vol. 5. No. 3 (1992): 145-155

Raz, J. (Ed.) *Authority* (Oxford: Blackwell, 1990)

Ethics in the Public Domain (Oxford: Clarendon, 1994)

Readhead, M. 'Making the Past Useful for a Pluralistic Present: Taylor, Arendt, and a Problem for Historical Reasoning' in *American Journal of Political Science* Vol. 46, No. 4 (October 2002)

Charles Taylor: Thinking and Living Deep Diversity (New York and Oxford: Rowman & Littlefield Publishers, Inc, 2002)

Rehg, W. 'Translator's Introduction' in Habermas, J. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge: Polity, 1996)

Rescher, N. *Pluralism and the Demand for Consensus* (Oxford: Clarendon Press, 1993)

Rorty, R. 'Is "Cultural Recognition" a Useful Concept for Leftist Politics?' Critical Horizons 1/1 (February 2000): 7-20

Rosenblum, N. L . *Another Liberalism: Romanticism and the Reconstruction of Liberal Thought.* (Cambridge, Massachusetts and London, England: Cambridge University Press, 1987)

(ed.) *Liberalism and the Moral Life* (Cambridge, MA: Harvard University Press, 1989)

Rosenfeld, M. *Constitutionalism, Identity, Difference, and Legitimacy* (Durham: Duke University Press, 1994)

Rothstein, E. 'Museum Review: Museum with an American Indian Voice' *New York Times* Tuesday September 21st 2004.

Rousseau, J. J. Rousseau, J.J. *Émile* Translated by Barbara Foxley (London: Dent, 1969)

'Letter to M. d'Alembert' on the Theatre in Bloom, A. (Ed.) *Politics and the Arts* (Ithaca, New York: Cornell University Press, 1991)

Rousseau, J.J. *The Confessions* Translated by J. M. Cohen (London: Penguin, 1953) .

Rousseau, J.J. *The Social Contract and Discourses* Translated and introduced by G. D. H. Cole (London: Everyman, 1993)

Rushdie, S. 'In Bad Faith' *The Guardian,* Monday (March 14th 2004)

Russell, P. *Constitutional Odyssey. Can Canadians Be a Sovereign People?* (Toronto: Toronto University Press, 1992)

Ryan, A. 'Staunchly modern, non-bourgeois liberalism' in Simhony, A. & Weinstein, D. (Ed.) *The New Liberalism: Reconciling Liberty and Community.* (Cambridge: Cambridge University Press, 2001): 184-204

Sandel, M.J. 'Morality and the Liberal Ideal' *The New Republic* May 7th 1984.

'The Procedural Republic and the Unencumbered Self' in *Contemporary Political Theory: A Reader* (ed.) Farrelly, C. (London: Sage, 2004): 109-112

Democracy's Discontents (Cambridge Mass: Harvard University Press, 1996)

Liberalism and the Limits of Justice (Cambridge: Cambridge University Press, 1982)

Schecter, D. *Sovereign States or Political Communities? Civil Society and Contemporary Politics* (Manchester and New York: Manchester University Press, 2000)

Scheuerman, W. E. 'Revolutions and Constitutions: Hannah Arendt's Challenge to Carl Schmitt' in David Dyzenhaus (Ed.) *Law as Politics: Carl Schmitt's Critique of Liberalism* (Durham & London: Duke University Press, 1998): 252-280

Schmidt, J. (Ed.) *What is Enlightenment: Eighteenth-Century Answers and Twentieth Century Questions* (Berkeley: University of California Press, 1996)

Schmitt, C. *Political Theology* Translated by George Schwab (Cambridge, Mass: MIT Press, 1985)

Schumpeter, J. *Capitalism, Socialism and Democracy* (London, Allen and Unwin, 1983)

Schwarz. J. M. *The Permanence of the Political: A Democratic Critique of the Radical Impulse to Transcend Politics*. (Princeton, New Jersey: Princeton University Press, 1995)

Scruton, R. *In Defence of Nation* in Clark, J. C. D. *Ideas and Politics in Modern Britain* (London: Macmillan, 1990): 53-86

Sennett, R. *The Fall of Public Man* (London and Boston: Faber and Faber, 1977).

Shachar, **A.** 'On Citizenship and Multicultural Vulnerability' *Political Theory.* February. No. 28, (2000): 64-89

Shafir, G.*The Citizenship Debates: A Reader* (Minneapolis: University of Minnesota Press, 1998)

Shklar, J. 'Review of *Sources of the Self'* in *Political Theory* 19/1 (1991): 105-9

Sieyes, E.J. *What is the Third Estate?* Translated by M. Blondel (London: Pall Mall Press, 1963)

Simmons, A.J. *The Lockean Theory of Rights* (Princeton: Princeton University Press, 1992)

Simpson, L.C. 'Critical Theory and the 'Politics of Recognition' in Hahn, L. E (Ed.) *Perspectives on Habermas* (Chicago, Illinois: Open Court, 2000)

Smith, A. *An Inquiry into the nature and causes of the wealth of nations*. (London: Methuen, 1950)

Smith, N. H. *Charles Taylor: Meaning, Morals and Modernity* (Cambridge: Polity, 2002)

'Charles Taylor, Strong Hermeneutics and the Politics of Difference', *Radical Philosophy* 68 (Autumn 1994): 19-27

Strong hermeneutics: Contingency and Moral Identity (London & New York: Routledge, 1997)

Spinner, J. *The Boundaries of Citizenship: Race, Ethnicity and Nationality in the Liberal State* (Baltimore: John Hopkins University Press, 1994)

Squires, N. 'Despair of a forgotten People.' *Sunday Herald* 16th February 2003

Steinberg, J. *Locke, Rousseau and the Idea of Consent: An enquiry into the Liberal Democratic Theory of Political Obligation* (Connecticut: Greenwood Press, 1978)

Sternberger, D. 'Verfassungspatriotismus' *Frankfurter Allgemeine Zeitung* 23rd May 1979.

Stevenson, N. *Cultural Citizenship: Cosmopolitan Questions* (Berkshire: Open University Press, 2003).=

Strauss, L. *Natural Right and History* (Chicago: University of Chicago Press, 1953)

Sypnowich, C. 'The Culture of Citizenship' in *Politics and Society,* Vol. 28, No. 4 (December 2000): 531-555

Taylor, C. 'Atomism' in Avineri, S. and De-Shalit, A. (eds.) *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992): 29-50

'Connolly, Foucault and Truth' *Political Theory* (August 1985): 377-385

'Cross-Purposes: The Liberal Communitarian Debate' in N. Rosenblum (ed.) *Liberalism and the Moral Life* (Cambridge, MA: Harvard University Press, 1989): 159-182

'Democratic Exclusion (and its Remedies?) in *Multiculturalism, Liberalism and Democracy* (ed.) Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan. (New Delhi: Oxford University Press, 1999): 138-163

'Engaged agency and background in Heidegger' in *The Cambridge Companion to Heidegger* (ed.) Charles B. Guignon. (Cambridge: Cambridge University Press, 1993): 317-336

Hegel (Cambridge: Cambridge University Press, 1975).

Hegel and Modern Society (Cambridge: Cambridge University Press, 1979)

'Hegel: History and Politics', Sandel M. (ed.) *Liberalism and its Critics* (New York: New York University Press, 1984): 176-199

Human Agency and Language: Philosophical Papers 1 (Cambridge: Cambridge University Press, 1985)

'Inwardness and the Culture of Modernity' in *Philosophical Interventions in the Unfinished Project of Modernity* (eds.) Axel Honneth, Thomas McCarthy, Claus Offe and Albrecht Wellmer. Translations by William Rehg (Cambridge, Massachusetts: MIT press, 1992): 88-110

'Language and Society' in *Communicative Action: Essays on Jurgen Habermas's 'The Theory of Communicative Action'.* (eds.) Axel Honneth and Hans Joas and Translated by Jeremy Gaines and Doris L. Jones (Cambridge: Polity, 1991): 23-35

'Leading a Life' Chang, R. (Ed.) *Incommensurability, Incomparability and Practical Reasoning* (Cambridge, Massachusetts & London, England: Harvard University Press, 1997): 170-183

'Liberal Politics and the Public Sphere' in *New Communitarian Thinking* (ed.) Amitai Etzoni (Charlottesville and London: University Press of Virginia: 1995): 183-217

The Listener (March 20 1986)

'Living with Difference' In *Debating Democracy's Discontent: Essays on American Politics, Law and Public Philosophy* Edited by Anita L. Allen and Milton C. Regan, Jr. (Oxford & New York: Oxford University Press, 1998): 212-226

Modern Social Imaginaries (Durham & London: Duke University Press, 2004)

'Multiculturalism and Political Identity' in the Review Symposium on Bhikhu Parekh's 'Rethinking Multiculturalism' *Ethnicities,* Vol. 1, No. 1 (2001): 122-128

'*Multiculturalism and 'the Politics of Recognition' Multiculturalism: Examining 'the Politics of Recognition',* Amy Gutmann (ed.) (Princeton: Princeton University Press, 1994). First published as *Multiculturalism and 'the Politics of Recognition'* (Princeton: Princeton University Press, 1992)

'Nationalism and Modernity' in *The Morality of Nationalism* (eds.) Robert McKim and Jeff McMahan (New York & Oxford: Oxford University Press, 1997): 31-65

Philosophical Arguments (Cambridge, Massachusetts & London, England: Harvard University Press, 1995)

'Philosophy and its History' in *Philosophy in History: Essays on the historiography of philosophy* (eds.) Richard Rorty, J. B Schneewind and Quentin Skinner (Cambridge: Cambridge University Press, 1984): 17-30

Philosophy and the Human Sciences: Philosophical Papers 2 (Cambridge: Cambridge University Press, 1985)

'Rationality' Hollis, M. & Lukes, S. (eds) *Rationality and Relativism* (Cambridge: MIT Press, 1982): 87-105

'Reply to Commentators' in *Philosophy and Phenomenological Research* Volume 54, Issue 1 (March 1994): 203-213

Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism (Montreal: McGill-Queens University Press, 1993)

'Reply and Re-articulation', James Tully, ed., *Philosophy in an Age of Pluralism: The Philosophy of Charles Taylor in Question* (Cambridge: Cambridge University Press, 1994): 213-257

'Reply to Commentators' *Philosophy and Phenomenological Research* Vol. 54, Issue 1 (March 1994): 203-213

Sources of the Self: The Making of Modern Identity (Cambridge: Cambridge University Press, 1989)

'Taylor and Foucault on Power and Freedom: A Reply' in *Political Studies* XXXVII, 1989: 277-281

'The Dialogical Self' in *The Interpretive Turn: Philosophy, Science, Culture* Edited by David R. Hiley, James F. Bohman, and Richard Shusterman (Ithaca and London: Cornell University Press, 1991): 304-314

The Ethics of Authenticity (Cambridge, Mass.: Harvard University Press: 1992) published as *The Malaise of Modernity* (Toronto: Anansi Press, 1991)

'The Modern Identity' *in Communitarianism: A New Public Ethics* (ed.) Markate Daly (Belmont, California: Wadsworth Publishing Company, 1994): 55-71

'Two Theories of Modernity' *Hastings Center Report* (March- April 1995)

Tercheck, R.J. *Republican Paradoxes and Liberal Anxieties, Retrieving Neglected Fragments of Political Theory.* (Lanham; London : Rowman & Littlefield Publishers, 1997)

Tocqueville, A. 'Volume One of *Democracy in America 1935'* in Zunz, O. and Kahan, A. S. *The Tocqueville Reader* (Oxford: Blackwell, 2002)

Tully, J. 'Political Philosophy as a Critical Activity' *Political Theory.* Vol. 30, No. 4 (August 2002): 533-555

'Struggles over Recognition and Distribution' Constellations 17/4 (2000): 469-482

Strange Multiplicity- Constitutionalism in an age of diversity (Cambridge MA: Cambridge University Press, 1995)

Turner, C. 'Jürgen Habermas. European or German?' *European Journal of Political Theory* Volume 3, No. 3 (July 2004): 293-314

Vernon, R. *Political Morality, a theory of liberal democracy* (London and New York: Continuum, 2001

Villa, D. 'Hannah Arendt: Modernity Alienation, and Critique' in *Hannah Arendt and the Meaning of Politics* Calhoune, C. & McGowan, J. (Eds.) (London: University of Minnesota Press, 1997): 179-206

Politics, Philosophy, Terror: Essays in the thought of Hannah Arendt (Princeton, New Jersey: Princeton University Press, 1999)

'Postmodernism and the Public Sphere' in *American Political Science Review* Vol. 86, No. 3 (September 1992): 712-721

Vipond, R.C. 'Quebec Confronts Canada' *Publicus* Vol. 23 (3)

Waldron, J 'Precommitment and Disagreement' Alexander, L. (Ed) *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998): 271-299

Walters, M. *Globalization* (London: Routledge, 1995)

Walzer, M. 'Passions and Politics' in *Philosophy and Social Criticism* Vol. 28. No. 6 (2002): 617-633

Warren, M. 'Deliberative Democracy' in *Democratic Theory Today: Challenges for the 21st Century* Edited by April Carter and Geoffrey Stokes (Polity: Cambridge, 2002)

'Democratic Theory and Self-Transformation' in *American Political Science Review* Vol. 86, No. 1, March 1992: 8-23

'The self in discursive democracy' in *The Cambridge Companion to Habermas,* Edited by Stephen K. White (Cambridge: Cambridge University Press, 1995): 167-200

Wellmer, A. *Endgames* (Oxford: Polity Press, 1997).

White, S.K. (ed.) *The Cambridge Companion to Habermas* (Cambridge: Cambridge University Press, 1995)

The Recent Work of Jürgen Habermas (Cambridge: CUP, 1988)

The Strengths of Weak Ontology in Political Theory (Princeton & Oxford: Princeton University Press, 2000)

Williams, C.H. 'A Requiem for Canada' in Graham Smith's Ed. *Federalism: The Multiethnic Challenge* (London and New York: Longman, 1995)

Williams, M. 'Justice Toward Groups: Political Not Juridical' in *Political Theory,* Vol.23, No.1. (February 1995): 67-91

Voice, Trust and Memory: Marginalized Groups and the Failings of Liberal Representation (Princeton, New Jersey: Princeton University Press, 1998)

Wittgenstein, L. *Philosophical Investigations* (New York: Macmillan, 1968)

Wolin, S. 'Democracy, Difference and Re-Cognition' *Political Theory,* Vol. 21 No. 3 (August 1993): 464-483

Politics and Vision (London: George Allen & Unwin, 1961)

Yack, B. 'Popular Sovereignty and Nationalism' in *Political Theory* Vol.29, No.4. (August 2001): 517-536

Young, I. M. 'Communication and the Other: Beyond Deliberative Democracy' in Benhabib, S. (Ed.) *Democracy and Difference* (Princeton: Princeton University Press, 1996): 120-135

Justice and the Politics of Difference (Princeton, New Jersey: Princeton University Press, 1990)

Zaretsky, E. 'Arendt and the Public/Private Distinction' in Calhoune, C. & McGowan, J. (eds.) (London: University of Minnesota Press, 1997)

Official Documents

UN Draft Declaration 23-08-1993.

Life in the United Kingdom: A Journey to Citizenship (Home Office: December 15th 2004).

http://www.homeoffice.gov.uk/comrace/faith/crime/index.html.