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THE PROCEDURAL REPUBLIC AND THE UNENCUMBERED SELF

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P

OLITICAL PHILOSOPHY seems often to reside at a distance from the world. Principles are one thing, politics another, and even our best efforts to “live up” to our ideals typically founder on the gap between theory and practice.¹

But if political philosophy is unrealizable in one sense, it is unavoidable in another. This is the sense in which philosophy inhabits the world from the start; our practices and institutions are embodiments of theory. To engage in a political practice is already to stand in relation to theory.² For all our uncertainties about ultimate questions of political philosophy—of justice and value and the nature of the good life—the one thing we know is that we live *some* answer all the time.

In this essay I will try to explore the answer we live now, in contemporary America. What is the political philosophy implicit in our practices and institutions? How does it stand, as philosophy? And how do tensions in the philosophy find expression in our present political condition?

It may be objected that it is a mistake to look for a single philosophy, that we live no “answer,” only answers. But a plurality of answers is itself a kind of answer. And the political theory that affirms this plurality is the theory I propose to explore.

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THE RIGHT AND THE GOOD

We might begin by considering a certain moral and political vision. It is a liberal vision, and like most liberal visions gives pride of place to justice, fairness, and individual rights. Its core thesis is this: a just society seeks not to promote any particular ends, but enables its citizens to pursue their own ends, consistent with a similar liberty for all; it therefore must govern by principles that do not presuppose any particular conception of the good. What justifies these regulative principles above all is not that they maximize the general welfare, or cultivate virtue, or otherwise promote the good, but rather that they conform to the concept of *right*, a moral category given prior to the good, and independent of it.

This liberalism says, in other words, that what makes the just society just is not the *telos* or purpose or end at which it aims, but precisely its refusal to choose in advance among competing purposes and ends. In its constitution and its laws, the just society seeks to provide a framework within which its citizens can pursue their own values and ends, consistent with a similar liberty for others.

The ideal I've described might be summed up in the claim that the right is prior to the good, and in two senses: The priority of the right means first, that individual rights cannot be sacrificed for the sake of the general good (in this it opposes utilitarianism), and second, that the principles of justice that specify these rights cannot be premised on any particular vision of the good life. (In this it opposes teleological conceptions in general.)

This is the liberalism of much contemporary moral and political philosophy, most fully elaborated by Rawls, and indebted to Kant for its philosophical foundations.³ But I am concerned here less with the lineage of this vision than with what seem to me three striking facts about it.

First, it has a deep and powerful philosophical appeal. Second, despite its philosophical force, the claim for the priority of the right over the good ultimately fails. And third, despite its philosophical failure, this liberal vision is the one by which we live. For us in late twentieth century America, it is our vision, the theory most thoroughly embodied in the practices and institutions most central to our public life. And seeing how it goes wrong as philosophy may help us to diagnose our present political condition. So first, its philosophical power; second, its philosophical failure; and third, however briefly, its uneasy embodiment in the world.

But before taking up these three claims, it is worth pointing out a central theme that connects them. And that is a certain conception of the person, of what it is to be a moral agent. Like all political theories, the liberal theory I have described is something more than a set of regulative principles. It is also a view about the way the world is, and the way we move within it. At the heart of this ethic lies a vision of the person that both inspires and undoes it. As I will try to argue now, what make this ethic so compelling, but also, finally, vulnerable, are the promise and the failure of the unencumbered self.

KANTIAN FOUNDATIONS

The liberal ethic asserts the priority of right, and seeks principles of justice that do not presuppose any particular conception of the good.⁴ This is what Kant means by the supremacy of the moral law, and what Rawls means when he writes that “justice is the first virtue of social institutions.”⁵ Justice is more than just another value. It provides the framework that *regulates* the play of competing values and ends; it must therefore have a sanction independent of those ends. But it is not obvious where such a sanction could be found.

Theories of justice, and for that matter, ethics, have typically founded their claims on one or another conception of human purposes and ends. Thus Aristotle said the measure of a *polis* is the good at which it aims, and even J.S. Mill, who in the nineteenth century called “justice the chief part, and incomparably the most binding part of all morality,” made justice an instrument of utilitarian ends.⁶

This is the solution Kant’s ethic rejects. Different persons typically have different desires and ends, and so any principle derived from them can only be contingent. But the moral law needs a *categorical* foundation, not a contingent one. Even so universal a desire as happiness will not do. People still differ in what happiness consists of, and to install any particular conception as regulative would impose on some the conceptions of others, and so deny at least to some the freedom to choose their *own* conceptions. In any case, to govern ourselves in conformity with desires and inclinations, given as they are by nature or circumstance, is not really to be *self-governing* at all. It is rather a refusal of freedom, a capitulation to determinations given outside us.

According to Kant, the right is “derived entirely from the concept of freedom in the external relationships of human beings, and has nothing

to do with the end which all men have by nature [i.e., the aim of achieving happiness] or with the recognized means of attaining this end."⁷ As such, it must have a basis prior to all empirical ends. Only when I am governed by principles that do not presuppose any particular ends am I free to pursue my own ends consistent with a similar freedom for all.

But this still leaves the question of what the basis of the right could possibly be. If it must be a basis prior to all purposes and ends, unconditioned even by what Kant calls "the special circumstances of human nature,"⁸ where could such a basis conceivably be found? Given the stringent demands of the Kantian ethic, the moral law would seem almost to require a foundation in nothing, for any empirical precondition would undermine its priority "Duty!" asks Kant at his most lyrical, "What origin is there worthy of thee, and where is to be found the root of thy noble descent which proudly rejects all kinship with the inclinations?"⁹

His answer is that the basis of the moral law is to be found in the *subject*, not the object of practical reason, a subject capable of an autonomous will. No empirical end, but rather "a subject of ends, namely a rational being himself, must be made the ground for all maxims of action."¹⁰ Nothing other than what Kant calls "the subject of all possible ends himself" can give rise to the right, for only this subject is also the subject of an autonomous will. Only this subject could be that "something which elevates man above himself as part of the world of sense" and enables him to participate in an ideal, unconditioned realm wholly independent of our social and psychological inclinations. And only this thoroughgoing independence can afford us the detachment we need if we are ever freely to choose for ourselves, unconditioned by the vagaries of circumstance.¹¹

Who or what exactly *is* this subject? It is, in a certain sense, *us*. The moral law, after all, is a law we give *ourselves*; we don't *find* it, we *will* it. That is how it (and we) escape the reign of nature and circumstance and merely empirical ends. But what is important to see is that the "we" who do the willing are not "we" qua particular persons, you and me, each for ourselves—the moral law is not up to us as individuals—but "we" qua participants in what Kant calls "pure practical reason," "we" qua participants in a transcendental subject.

Now what is to guarantee that I *am* a subject of this kind, capable of exercising pure practical reason? Well, strictly speaking, there *is* no guarantee; the transcendental subject is only a possibility. But it is a possibility I must *presuppose* if I am to think of myself as a free moral agent. Were I wholly an empirical being, I would not be capable of

freedom, for every exercise of will would be conditioned by the desire for some object. All choice would be heteronomous choice, governed by the pursuit of some end. My will could never be a first cause, only the effect of some prior cause, the instrument of one or another impulse or inclination. "When we think of ourselves as free," writes Kant, "we transfer ourselves into the intelligible world as members and recognize the autonomy of the will."¹² And so the notion of a subject prior to and independent of experience, such as the Kantian ethic requires, appears not only possible but indispensable, a necessary presupposition of the possibility of freedom.

How does all of this come back to politics? As the subject is prior to its ends, so the right is prior to the good. Society is best arranged when it is governed by principles that do not presuppose any particular conception of the good, for any other arrangement would fail to respect persons as being capable of choice; it would treat them as objects rather than subjects, as means rather than ends in themselves.

We can see in this way how Kant's notion of the subject is bound up with the claim for the priority of right. But for those in the Anglo-American tradition, the transcendental subject will seem a strange foundation for a familiar ethic. Surely, one may think, we can take rights seriously and affirm the primacy of justice without embracing the *Critique of Pure Reason*. This, in any case, is the project of Rawls.

He wants to save the priority of right from the obscurity of the transcendental subject. Kant's idealist metaphysic, for all its moral and political advantage, cedes too much to the transcendent, and wins for justice its primacy only by denying it its human situation. "To develop a viable Kantian conception of justice," Rawls writes, "the force and content of Kant's doctrine must be detached from its background in transcendental idealism" and recast within the "canons of a reasonable empiricism."¹³ And so Rawls' project is to preserve Kant's moral and political teaching by replacing Germanic obscurities with a domesticated metaphysic more congenial to the Anglo-American temper. This is the role of the original position.

FROM TRANSCENDENTAL SUBJECT TO UNENCUMBERED SELF

The original position tries to provide what Kant's transcendental argument cannot—a foundation for the right that is prior to the good,

but still situated in the world. Sparing all but essentials, the original position works like this: It invites us to imagine the principles we would choose to govern our society if we were to choose them in advance, before we knew the particular persons we would be—whether rich or poor, strong or weak, lucky or unlucky—before we knew even our interests or aims or conceptions of the good. These principles—the ones we would choose in that imaginary situation—are the principles of justice. What is more, if it works, they are principles that do not presuppose any particular ends.

What they *do* presuppose is a certain picture of the person, of the way we must be if we are beings for whom justice is the first virtue. This is the picture of the unencumbered self, a self understood as prior to and independent of purposes and ends.

Now the unencumbered self describes first of all the way we stand toward the things we have, or want, or seek. It means there is always a distinction between the values I *have* and the person I *am*. To identify any characteristics as *my* aims, ambitions, desires, and so on, is always to imply some subject “me” standing behind them, at a certain distance, and the shape of this “me” must be given prior to any of the aims or attributes I bear. One consequence of this distance is to put the self *itself* beyond the reach of its experience, to secure its identity once and for all. Or to put the point another way, it rules out the possibility of what we might call *constitutive* ends. No role or commitment could define me so completely that I could not understand myself without it. No project could be so essential that turning away from it would call into question the person I am.

For the unencumbered self, what matters above all, what is most essential to our personhood, are not the ends we choose but our capacity to choose them. The original position sums up this central claim about us. “It is not our aims that primarily reveal our nature,” writes Rawls, “but rather the principles that we would acknowledge to govern the background conditions under which these aims are to be formed. We should therefore reverse the relation between the right and the good proposed by teleological doctrines and view the right as prior.”¹⁴

Only if the self is prior to its ends can the right be prior to the good. Only if my identity is never tied to the aims and interests I may have at any moment can I think of myself as a free and independent agent, capable of choice.

This notion of independence carries consequences for the kind of community of which we are capable. Understood as unencumbered

selves, we are of course free to join in voluntary association with others, and so are capable of community in the cooperative sense. What is denied to the unencumbered self is the possibility of membership in any community bound by moral ties antecedent to choice; he cannot belong to any community where the self *itself* could be at stake. Such a community—call it constitutive as against merely cooperative—would engage the identity as well as the interests of the participants, and so implicate its members in a citizenship more thoroughgoing than the unencumbered self can know

For justice to be primary, then, we must be creatures of a certain kind, related to human circumstance in a certain way. We must stand to our circumstance always at a certain distance, whether as transcendental subject in the case of Kant, or as unencumbered selves in the case of Rawls. Only in this way can we view ourselves as subjects as well as objects of experience, as agents and not just instruments of the purposes we pursue.

The unencumbered self and the ethic it inspires, taken together, hold out a liberating vision. Freed from the dictates of nature and the sanction of social roles, the human subject is installed as sovereign, cast as the author of the only moral meanings there are. As participants in pure practical reason, or as parties to the original position, we are free to construct principles of justice unconstrained by an order of value antecedently given. And as actual, individual selves, we are free to choose our purposes and ends unbound by such an order, or by custom or tradition or inherited status. So long as they are not unjust, our conceptions of the good carry weight, whatever they are, simply in virtue of our having chosen them. We are, in Rawls' words, "self-originating sources of valid claims."¹⁵

This is an exhilarating promise, and the liberalism it animates is perhaps the fullest expression of the Enlightenment's quest for the self-defining subject. But is it true? Can we make sense of our moral and political life by the light of the self-image it requires? I do not think we can, and I will try to show why not by arguing first within the liberal project, then beyond it.

JUSTICE AND COMMUNITY

We have focused so far on the foundations of the liberal vision, on the way it derives the principles it defends. Let us turn briefly now to the

substance of those principles, using Rawls as our example. Sparring all but essentials once again, Rawls' two principles of justice are these: first, equal basic liberties for all, and second, only those social and economic inequalities that benefit the least-advantaged members of society (the difference principle).

In arguing for these principles, Rawls argues against two familiar alternatives—utilitarianism and libertarianism. He argues against utilitarianism that it fails to take seriously the distinction between persons. In seeking to maximize the general welfare, the utilitarian treats society as whole as if it were a single person; it conflates our many, diverse desires into a single system of desires, and tries to maximize. It is indifferent to the distribution of satisfactions among persons, except insofar as this may affect the overall sum. But this fails to respect our plurality and distinctness. It uses some as means to the happiness of all, and so fails to respect each as an end in himself. While utilitarians may sometimes defend individual rights, their defense must rest on the calculation that respecting those rights will serve utility in the long run. But this calculation is contingent and uncertain. So long as utility is what Mill said it is, "the ultimate appeal on all ethical questions,"¹⁶ individual rights can never be secure. To avoid the danger that their life prospects might one day be sacrificed for the greater good of others, the parties to the original position therefore insist on certain basic liberties for all, and make those liberties prior.

If utilitarians fail to take seriously the distinctness of persons, libertarians go wrong by failing to acknowledge the arbitrariness of fortune. They define as just whatever distribution results from an efficient market economy, and oppose all redistribution on the grounds that people are entitled to whatever they get, so long as they do not cheat or steal or otherwise violate someone's rights in getting it. Rawls opposes this principle on the ground that the distribution of talents and assets and even efforts by which some get more and others get less is arbitrary from a moral point of view, a matter of good luck. To distribute the good things in life on the basis of these differences is not to do justice, but simply to carry over into human arrangements the arbitrariness of social and natural contingency. We deserve, as individuals, neither the talents our good fortune may have brought, nor the benefits that flow from them. We should therefore regard these talents as common assets, and regard one another as common beneficiaries of

the rewards they bring. "Those who have been favored by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out. In justice as fairness, men agree to share one another's fate."¹⁷

This is the reasoning that leads to the difference principle. Notice how it reveals, in yet another guise, the logic of the unencumbered self. I cannot be said to deserve the benefits that flow from, say, my fine physique and good looks, because they are only accidental, not essential facts about me. They describe attributes *I have*, not the person *I am*, and so cannot give rise to a claim of desert. Being an unencumbered self, this is true of *everything* about me. And so I cannot, as an individual, deserve anything at all.

However jarring to our ordinary understandings this argument may be, the picture so far remains intact; the priority of right, the denial of desert, and the unencumbered self all hang impressively together.

But the difference principle requires more, and it is here that the argument comes undone. The difference principle begins with the thought, congenial to the unencumbered self, that the assets I have are only accidentally mine. But it ends by assuming that these assets are therefore *common* assets and that society has a prior claim on the fruits of their exercise. But this assumption is without warrant. Simply because I, as an individual, do not have a privileged claim on the assets accidentally residing "here," it does not follow that everyone in the world collectively does. For there is no reason to think that their location in society's province or, for that matter, within the province of humankind, is any *less* arbitrary from a moral point of view. And if their arbitrariness within *me* makes them ineligible to serve *my* ends, there seems no obvious reason why their arbitrariness within any particular society should not make them ineligible to serve that society's ends as well.

To put the point another way, the difference principle, like utilitarianism, is a principle of sharing. As such, it must presuppose some prior moral tie among those whose assets it would deploy and whose efforts it would enlist in a common endeavor. Otherwise, it is simply a formula for using some as means to others' ends, a formula this liberalism is committed to reject.

But on the cooperative vision of community alone, it is unclear what the moral basis for this sharing could be. Short of the constitutive

conception, deploying an individual's assets for the sake of the common good would seem an offense against the "plurality and distinctness" of individuals this liberalism seeks above all to secure.

If those whose fate I am required to share really are, morally speaking, *others*, rather than fellow participants in a way of life with which my identity is bound, the difference principle falls prey to the same objections as utilitarianism. Its claim on me is not the claim of a constitutive community whose attachments I acknowledge, but rather the claim of a concatenated collectivity whose entanglements I confront.

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

What, then, of those encumbrances? The point so far is that we cannot be persons for whom justice is primary, and also be persons for whom the difference principle is a principle of justice. But which must give way? Can we view ourselves as independent selves, independent in the sense that our identity is never tied to our aims and attachments?

I do not think we can, at least not without cost to those loyalties and convictions whose moral force consists partly in the fact that living by them is inseparable from understanding ourselves as the particular persons we are—as members of this family or community or nation or people, as bearers of that history, as citizens of this republic. Allegiances such as these are more than values I happen to have, and to hold, at a certain distance. They go beyond the obligations I voluntarily incur and the "natural duties" I owe to human beings as such. They allow that to some I owe more than justice requires or even permits, not by reason of agreements I have made but instead in virtue of those more or less enduring attachments and commitments that, taken together, partly define the person I am.

To imagine a person incapable of constitutive attachments such as these is not to conceive an ideally free and rational agent, but to imagine a person wholly without character, without moral depth. For to have character is to know that I move in a history I neither summon nor command, which carries consequences nonetheless for my choices and conduct. It draws me closer to some and more distant from others; it

makes some aims more appropriate, others less so. As a self-interpreting being, I am able to reflect on my history and in this sense to distance myself from it, but the distance is always precarious and provisional, the point of reflection never finally secured outside the history itself. But the liberal ethic puts the self beyond the reach of its experience, beyond deliberation and reflection. Denied the expansive self-understandings that could shape a common life, the liberal self is left to lurch between detachment on the one hand, and entanglement on the other. Such is the fate of the unencumbered self, and its liberating promise.

THE PROCEDURAL REPUBLIC

But before my case can be complete, I need to consider one powerful reply. While it comes from a liberal direction, its spirit is more practical than philosophical. It says, in short, that I am asking too much. It is one thing to seek constitutive attachments in our private lives; among families and friends, and certain tightly knit groups, there may be found a common good that makes justice and rights less pressing. But with public life—at least today, and probably always—it is different. So long as the nation-state is the primary form of political association, talk of constitutive community too easily suggests a darker politics rather than a brighter one; amid echoes of the moral majority, the priority of right, for all its philosophical faults, still seems the safer hope.

This is a challenging rejoinder, and no account of political community in the twentieth century can fail to take it seriously. It is challenging not least because it calls into question the status of political philosophy and its relation to the world. For if my argument is correct, if the liberal vision we have considered is not morally self-sufficient but parasitic on a notion of community it officially rejects, then we should expect to find that the political practice that embodies this vision is not *practically* self-sufficient either—that it must draw on a sense of community it cannot supply and may even undermine. But is that so far from the circumstance we face today? Could it be that through the original position darkly, on the far side of the veil of ignorance, we may glimpse an intimation of our predicament, a refracted vision of ourselves?

How does the liberal vision—and its failure—help us make sense of our public life and its predicament? Consider, to begin, the following

paradox in the citizen's relation to the modern welfare state. In many ways, we in the 1980s stand near the completion of a liberal project that has run its course from the New Deal through the Great Society and into the present. But notwithstanding the extension of the franchise and the expansion on individual rights and entitlements in recent decades, there is a widespread sense that, individually and collectively, our control over the forces that govern our lives is receding rather than increasing. This sense is deepened by what appear simultaneously as the power and the powerlessness of the nation-state. On the one hand, increasing numbers of citizens view the state as an overly intrusive presence, more likely to frustrate their purposes than advance them. And yet, despite its unprecedented role in the economy and society, the modern state seems itself disempowered, unable effectively to control the domestic economy, to respond to persisting social ills, or to work America's will in the world.

This is a paradox that has fed the appeals of recent politicians (including Carter and Reagan), even as it has frustrated their attempts to govern. To sort it out, we need to identify the public philosophy implicit in our political practice, and to reconstruct its arrival. We need to trace the advent of the procedural republic, by which I mean a public life animated by the liberal vision and self-image we've considered.

The story of the procedural republic goes back in some ways to the founding of the republic, but its central drama begins to unfold around the turn of the century. As national markets and large-scale enterprise displaced a decentralized economy, the decentralized political forms of the early republic became outmoded as well. If democracy was to survive, the concentration of economic power would have to be met by a similar concentration of political power. But the Progressives understood, or some of them did, that the success of democracy required more than the centralization of government; it also required the nationalization of politics. The primary form of political community had to be recast on a national scale. For Herbert Croly, writing in 1909, the "nationalizing of American political, economic, and social life" was "an essentially formative and enlightening political transformation." We would become more of a democracy only as we became "more of a nation . . . in ideas, in institutions, and in spirit."¹⁹

This nationalizing project would be consummated in the New Deal, but for the democratic tradition in America, the embrace of the nation was a decisive departure. From Jefferson to the populists, the party of democracy in American political debate had been, roughly speaking, the

party of the provinces, of decentralized power, of small-town and small-scale America. And against them had stood the party of the nation—first Federalists, then Whigs, then the Republicans of Lincoln—a party that spoke for the consolidation of the union. It was thus the historic achievement of the New Deal to unite, in a single party and political program, what Samuel Beer has called “liberalism and the national idea.”²⁰

What matters for our purpose is that, in the twentieth century, liberalism made its peace with concentrated power. But it was understood at the start that the terms of this peace required a strong sense of national community, morally and politically to underwrite the extended involvements of a modern industrial order. If a virtuous republic of small-scale, democratic communities was no longer a possibility, a national republic seemed democracy’s next best hope. This was still, in principle at least, a politics of the common good. It looked to the nation, not as a neutral framework for the play of competing interests, but rather as a formative community, concerned to shape a common life suited to the scale of modern social and economic forms.

But this project failed. By the mid- or late twentieth century, the national republic had run its course. Except for extraordinary moments, such as war, the nation proved too vast a scale across which to cultivate the shared self-understandings necessary to community in the formative, or constitutive sense. And so the gradual shift, in our practices and institutions, from a public philosophy of common purposes to one of fair procedures, from a politics of good to a politics of right, from the national republic to the procedural republic.

OUR PRESENT PREDICAMENT

A full account of this transition would take a detailed look at the changing shape of political institutions, constitutional interpretation, and the terms of political discourse in the broadest sense. But I suspect we would find in the *practice* of the procedural republic two broad tendencies foreshadowed by its philosophy: first, a tendency to crowd out democratic possibilities; second, a tendency to undercut the kind of community on which it nonetheless depends.

Where liberty in the early republic was understood as a function of democratic institutions and dispersed power,²¹ liberty in the procedural

republic is defined in opposition to democracy, as an individual's guarantee against what the majority might will. I am free insofar as I am the bearer of rights, where rights are trumps.²² Unlike the liberty of the early republic, the modern version permits—in fact even requires—concentrated power. This has to do with the universalizing logic of rights. Insofar as I have a right, whether to free speech or a minimum income, its provision cannot be left to the vagaries of local preferences but must be assured at the most comprehensive level of political association. It cannot be one thing in New York and another in Alabama. As rights and entitlements expand, politics is therefore displaced from smaller forms of association and relocated at the most universal form—in our case, the nation. And even as politics flows to the nation, power shifts away from democratic institutions (such as legislatures and political parties) and toward institutions designed to be insulated from democratic pressures, and hence better equipped to dispense and defend individual rights (notably the judiciary and bureaucracy).

These institutional developments may begin to account for the sense of powerlessness that the welfare state fails to address and in some ways doubtless deepens. But it seems to me a further clue to our condition recalls even more directly the predicament of the unencumbered self—lurching, as we left it, between detachment on the one hand, the entanglement on the other. For it is a striking feature of the welfare state that it offers a powerful promise of individual rights, and also demands of its citizens a high measure of mutual engagement. But the self-image that attends the rights cannot sustain the engagement.

As bearers of rights, where rights are trumps, we think of ourselves as freely choosing, individual selves, unbound by obligations antecedent to rights, or to the agreements we make. And yet, as citizens of the procedural republic that secures these rights, we find ourselves implicated willy-nilly in a formidable array of dependencies and expectations we did not choose and increasingly reject.

In our public life, we are more entangled, but less attached, than ever before. It is as though the unencumbered self presupposed by the liberal ethic had begun to come true—less liberated than disempowered, entangled in a network of obligations and involvements unassociated with any act of will, and yet unmediated by those common identifications or expansive self-definitions that would make them tolerable. As the scale of social and political organization has become more comprehensive, the terms of our collective identity have become more

fragmented, and the forms of political life have outrun the common purpose needed to sustain them.

Something like this, it seems to me, has been unfolding in America for the past half-century or so. I hope I have said at least enough to suggest the shape a fuller story might take. And I hope in any case to have conveyed a certain view about politics and philosophy and the relation between them—that our practices and institutions are themselves embodiments of theory, and to unravel their predicament is, at least in part, to seek after the self-image of the age.

NOTES

1. An excellent example of this view can be found in Samuel Huntington, *American Politics: The Promise of Disharmony* (Cambridge: Harvard University Press, 1981). See especially his discussion of the “ideals versus institutions” gap, pp. 10-12, 39-41, 61-84, 221-262.

2. See, for example, the conceptions of a “practice” advanced by Alasdair MacIntyre and Charles Taylor. MacIntyre, *After Virtue* (Notre Dame: University of Notre Dame Press, 1981), pp. 175-209. Taylor, “Interpretation and the Sciences of Man,” *Review of Metaphysics* 25, (1971) pp. 3-51.

3. John Rawls, *A Theory of Justice*. (Oxford: Oxford University Press, 1971). Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. H. J. Paton. (1785; New York: Harper and Row, 1956). Kant, *Critique of Pure Reason*, trans. Norman Kemp Smith (1781, 1787; London: Macmillan, 1929). Kant, *Critique of Practical Reason*, trans. L. W. Beck (1788; Indianapolis: Bobbs-Merrill, 1956). Kant, “On the Common Saying: ‘This May Be True in Theory, But It Does Not Apply in Practice,’ ” in Hans Reiss, ed., *Kant’s Political Writings*. (1793; Cambridge: Cambridge University Press, 1970). Other recent versions of the claim for the priority of the right over good can be found in Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974); Ronald Dworkin, *Taking Rights Seriously* (London: Duckworth, 1977); Bruce Ackerman, *Social Justice in the Liberal State* (New Haven: Yale University Press, 1980).

4. This section, and the two that follow, summarize arguments developed more fully in Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).

5. Rawls (1971), p. 3.

6. John Stuart Mill, *Utilitarianism*, in *The Utilitarians* (1893; Garden City: Doubleday, 1973), p. 465. Mill, *On Liberty*, in *The Utilitarians*, p. 485 (Originally published 1849).

7. Kant (1793), p. 73.

8. Kant (1785), p. 92.

9. Kant (1788), p. 89.

10. Kant (1785), p. 105.

11. Kant (1788), p. 89.

12. Kant (1785), p. 121.
13. Rawls, "The Basic Structure as Subject," *American Philosophical Quarterly* (1977), p. 165.
14. Rawls (1971), p. 560.
15. Rawls, "Kantian Constructivism in Moral Theory," *Journal of Philosophy* 77 (1980), p. 543.
16. Mill (1849), p. 485.
17. Rawls (1971), pp. 101-102.
18. The account that follows is a tentative formulation of themes requiring more detailed elaboration and support.
19. Croly, *The Promise of American Life* (Indianapolis: Bobbs-Merrill, 1965), pp. 270-273.
20. Beer, "Liberalism and the National Idea," *The Public Interest*, Fall (1966), pp. 70-82.
21. See, for example, Laurence Tribe, *American Constitutional Law* (Mineola: The Foundation Press, 1978), pp. 2-3.
22. See Ronald Dworkin, "Liberalism," in Stuart Hampshire, ed., *Public and Private Morality* (Cambridge: Cambridge University Press, 1978), p. 136.

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