

Subjects Between Ethics and Politics

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For Amy McKiernan, Andy Corcoran, Garrett Bredeson, Amanda Carrico, and Tomas,
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INTRODUCTION

The aim of this project is to question the relationship between ethics and politics in political theory. In doing so, it does not aim to ask simply whether ethical concerns are the proper subject of the political realm, nor does it aim to ask whether politics must follow ethics, as though both ethics and politics could be assumed to have stable meanings across political theories. Rather, this project takes as its starting point a prior theoretical moment: the account of the subject. It begins by asking how accounts of subjectivity constitute the conceptual meanings of ethics and politics, from within that theoretical framework, and therefore how ethics and politics relate to or, in fact, determine each other.

The contention, then, is that as the subject is defined, so too are ethics and politics defined. How we understand the self determines the responsibilities and obligations we understand that self to hold toward others. Likewise, how we understand the self frames our understanding of how a shared world ought to be constructed, maintained, and how our actions ought, or ought not, participate in the construction and maintenance of that shared world. Our understanding of the concepts of ethics and politics derives from our understanding of what we, as subjects, are. To define subjectivity is to define who and what we are as ethical and political subjects. The questions framing this project are, then: What is the subject and how does this constitute the meaning of ethics and the meaning of politics. From these definitions, how do these concepts not only relate to each other, but does one, or do both, determine the meaning of the other? Is there a relationship of priority and subordination between these concepts? If ethics and politics derive from the theory of the subject, if each is a capacity of, even an obligation of, the subject, ought we

say that the subject is, first, an ethical subject or a political subject? From this question, does the nature of the ethical determine the political, or does the nature of the political determine the ethical? Ought political theory place one or the other of the concepts within this binary in a position of priority at all?

The preceding remarks call for provisional definitions. It should be noted that these definitions are meant as formal since, as we will see in what follows, each theory addressed defines the content of ethics and of politics, i.e., the obligations and practices of each, in its own distinct manner. When referring to “the ethical” and “the political,” these terms are meant to indicate blanket concepts. “The political” indicates the structures and institutions of governance, as well as the practice of politics. By “politics” we mean, principally, action, individual or collective, in public, and especially in engagement with those structures and institutions. “The ethical” refers broadly to the normativity which determines the responsibilities and obligations of the subject. “Ethics” indicates the practice of the subject in meeting these responsibilities and obligations. Periodically, especially in Part I below, the term “moral” will be used to indicate a set of determinate principles, falling beneath the scope of the ethical, especially as it pertains to the creation of norms. Returning to our primary questions with these definitions in mind, at a broad level the question of the relationship between the ethical and the political always remains in the background of our discussions. The primary focus, however, begins at the more specific level of the subject and how her ethical and political responsibilities, obligations, and practices are (or, ought to be) determined by the relationship between ethics and politics.

Importantly, each theory examined contains an impetus for progress within the political. By this we mean that, despite their significant differences in both the proposals put forward by these theories and their final aims, each is premised upon the notion that the political can, indeed ought, to be an ongoing project of realizing human flourishing. While the meaning of flourishing as such differs across each theory, together they serve this project well because in each the contention that the political, especially through the roll it assigns to politics, ought to intertwine with the ethical, and more specifically the responsibilities and obligations of ethics, to meet this potential for ongoing human flourishing.

In pursuing the question of the relationship between ethics and politics we begin by asking what might be the consequences for a political theory if either ethics or politics (and, therefore, the ethical or the political) is granted a position of primacy over its complement. In other words, what becomes of a political theory if it characterizes one of these concepts as primary and, then, defines the other as derivative or merely subordinate to the first? This question is taken up by identifying political theories which establish ethics or politics, respectively, as primary and pushing this conceptual priority to its logical conclusion. This task comprises Parts I and II of this project. Taken together, the primary claim of Parts I and II is to show that when ethics and politics are positioned in relation to each other such that one is primary and the other derivative or merely subordinate, there results internal tensions which render the theories self-undermining from within their own terms.

Part I takes Kant and Rawls to be characteristic cases of political theories which place ethics in a position of primacy over politics. More specifically, it shows how this

priority of ethics results in the establishment of moral norms. These norms govern the scope of politics in such a way that, in both cases, produces conceptual outcomes which undercut their stated aims. Chapters I and II address Kant and Rawls respectively.

Kant claims that the institutions of the political – the constitution of the state, its governing bodies, its legislation and the execution of this legislation – ought always align with the dictates of his moral law. The moral law, then, establishes a regulative ideal toward which the practical legislating and governing of the state ought to seek as its ideal, and to which it is necessarily subordinate. Through this relationship, Kant sees that the state and its laws must always be subject to or, perhaps more accurately, continuing in the process of more perfectly approximating the moral law. Key to this relationship and to the ongoing revision of the juridical is the concept of autonomy necessitated by the moral law.

Chapter I explicates this relationship by taking up the relationship Kant establishes between the subject as ethical and the subject as political. It demonstrates that Kant's conception of the political subject, what he calls the citizen, follows from that subject's status as an ethical subject. In other words, the demands of the moral law determine not only the political obligations, but also the political character, of the political subject. As political, the primary obligation of the citizen is, quite simply, to obey the laws of the state, i.e., to consent to be governed and to follow the juridical edicts handed down from the legislators, administrators, and executors of that state. Kant establishes this primary duty precisely because of the relationship between the moral law and public right. He contends that if the laws the state creates are in accordance with the moral law, then as ethical subject and, more specifically, a rational agent, the citizen

could not but esteem the law as rational and, therefore, worthy of consent and obedience. Consent and obedience constitute a moral norm, and this moral norm effectively comprises the whole of the subject's status as political.

The moral law, then, wholly determines the political character of subjectivity, as well as the political activity of the subject. Governing, legislating, and involvement in the formation of the law is the proper space of those in positions of authority. The citizen as such is tasked with nothing but mere obedience, as Kant presumes obedience to laws which are moral is itself enough to satisfy the conditions for autonomy as a self-legislating rational will. However, this presumption leads Kant into a false equivalence between the subject's ethical respect for the moral law and her obedience to the concrete laws of the state. The contention of this chapter is not only that this false equivalence is problematic, but that it is internally problematic on Kant's own terms and that it derives from the primacy of ethics over politics. Kant assumes that the status of the moral law guarantees the autonomy of the subject, in obedience, effectively reducing the political character of subjectivity to its bare minimum: Obedience. Yet, it is argued that in order to achieve the conditions for the autonomous will of the subject within the political, and since the subject's rational agency itself is the possibility for and the site of the moral law, Kant ought to have a more robust conception of the political subject, an engaged and participatory actor within the formation of the general will. Absent this politicization of subjectivity, Kant's aim of an ethically guided and ethically progressive state is self-undermined, since the conditions for a self-legislating autonomous will, the core of the subject, are violated.

Rawls's political liberalism likewise relies upon the creation of moral norms to achieve its aim of a flourishing, well ordered, and stable state. A state is well ordered and stable when the coercive authority of the state is not justified or deployed in such a way that any segment of the population could not endorse its principles of justice from within its moral commitments. In other words, the political conditions for flourishing are met when the state's institutions and laws are justified and crafted in such a way that its citizens can universally consent to be governed by that state, under conditions wherein conceptions of the good life held by citizens differ and conflict between those citizens. Such a state is stable because universal consent through an overlapping consensus on the principles guiding the formation of the state's institutions and laws do not result in conflicts over value, i.e., facilitate the conditions for value pluralism, regarding the constitutional essentials of the state. Under such conditions citizens' ability to derive and endorse conceptions of the good life for themselves is maximally achieved without state interference and, then, the state respects the freedom and equality of its citizens.

Chapter II shows how these conditions rely upon the norms of stability and, more specifically, of overlapping consensus achieved through the strictures of public reason, and that these norms are moral insofar as they are necessitated by the two moral capacities characteristic of the subject: The ability to form a sense of the good, and the ability to form a sense of justice. These norms significantly reign in the scope of politics, as they aim explicitly to limit contestation of the basic principles dictating the structures of justice, or what Rawls calls the constitutional essentials of the state. Achieving stability means depoliticizing the basic institutions of the state and their justifying principles. The action of politics is limited then to political concerns of a lower order,

individual pieces of legislation, for example. The principles of justice remain stable, politics is minimized, and contests over values (the content of a conception of the good life) are rendered the matter of the private realm.

However, it is shown that the priority of these moral norms problematizes the very inclusiveness facilitated by the demand for overlapping consensus. Overlapping consensus requires that public reason dictate all possible justifications for the principles of justice. Public reason requires that one's reasons, what one may claim about the justifiability or unjustifiability of these principles, be formulated as general and value neutral claims able to be a) intelligible and b) endorsable from within any comprehensive conception of the good.

The consequences of this requirement are explored by interrogating Rawls's own commitment to justice as fairness as a political conception of justice. A key principle of justice as fairness – the difference principle – is used to examine how public reason may in fact create silence and marginalization amongst the least advantaged members of society, in direct opposition to the condition of inclusion and stability political liberalism is meant to produce. The difference principle states that inequalities are permissible, i.e., just, insofar as they are to the advantage of the worst off members of society, meaning that any form of inequality which does not advantage the least advantaged members of society is impermissible and ought not be constitutively permitted by the institutions of governance. The principles of justice must safeguard against the existence of such inequality. Where our critique begins is at the premise that the difference principle is justifiable from within the confines of public reason. It is claimed that requiring the least advantaged members of society to justify what inequalities they would permit or reject

through public reason confines their speech in such a way that precludes accounting for one's condition and one's reasons idiosyncratically is impermissible. Failure to frame one's reasons sufficiently generally or, furthermore, with attention paid to how given conditions of inequality prevent the attainment of a good life, i.e., by including value claims, results in the exclusion of such reasons from consideration in the determination of the principles of justice. The result is the marginalization of the least well off in society and the perpetuation of inequality, quite apart from the difference principle's stated intent. What would be necessary for making these voices heard, on Rawls's term, is the politicization of values and an openness to the airing of constitutively non-general claims, perhaps even claims that would register as non-intelligible from privileged positions. Curtailing politics – political contest over the basic institutions of governance and their justifications – through the moral norms of overlapping consensus and stability results conditions wherein consensus is not necessarily universal and overlapping but, rather, where the non-consenting voices of those who demand justice are not heard.

Part II examines Marx and Arendt as theorists who claim that politics, the political action of the subject, is the central and primary concept of political theory. In both cases, ethics is defined as either derivative of, or secondary to, action. The subject is first and foremost an actor and only beginning from the concept of action can we glean the normativity of the ethical. Like Part I, Part II shows how the primacy and centrality of action produces self-undermining tensions with both Marx and Arendt's accounts of politics. These discussions comprise Chapters III and IV respectively.

For Marx, positive political or ethical theorizing is merely the ideological reflection of existing power relations. Subjectivity and consciousness of the world are

determined from the start by the everyday economic practices of the historical moment. If the positive ideology of a period is cleared away, what we find left is simply the productive practices, the action, of subjects in their world. In order to change our ideas and, significantly more importantly, the condition under which we live requires the alteration of our forms of economic practice. The transformation of our practices requires, in fact is, the action of subjects remaking their world by creating new forms of life.

Marx's dialectical materialism, then, makes him perhaps an uncomfortable advocate of ethics or of politics. Chapter III takes up the task, first, of outlining the ethical and the political in Marx and, second, of showing how the political, defined as transformative action, assumes the position of primacy between these two concepts, ultimately to the detriment of the possibility for such action. Politics and ethics have a dual character, for Marx. On the one hand, their existing positive expressions are ideological justifications for capitalist society. On the other, however, they are potentially transformative practices of the subject in opposition to that society. The discussion begins with locating where we might find the ethical in Marx's critique of capitalism. Marx shows that natural rights, the normative categories of capitalist society, have always been expressions of that society. More importantly for our purposes, Marx's critique of these concepts unearths the constitutive instrumentality, antagonism, and egoism built into natural rights as ethical concepts. Out of this critique we glean the category of dehumanization, a condition not only condemnable but which necessitates transformative action.

With this normative injunction that the material conditions of society must be transformed, Marx formulates ethics as the practice of immanent negative criticism aimed at unearthing the structural sources of dehumanization and motivating an active response toward its abolition. Politics for Marx, then, is the action of transformation. Crucially, however, the final aims of such action are not articulable from within the present, as to positively formulate the image of the material conditions to come would result in a lapse back into the ideology of capitalist society and, ultimately, recreate those very conditions. Politics, as transformative action, is, then, the central category to Marx's political theory not only because it is the engine for the transformation of society but also because it is the necessary condition for making that transformation and its products conceptually intelligible in the first place. Only with new forms of practice can we conceptually understand the new order of things.

So, while the practice of ethical critique may provide an impetus for action, we find that action, in effect, becomes its own condition for possibility. This is crucial because Marx does not indicate that critique, the uncovering of dehumanization and the normative imperative that it end, itself transforms the subject's consciousness. Rather, consciousness is only transformed as the result of material transformation and the creation of new practices. Consequently, politics as transformative action requires the collective overturning of the existing material conditions of society, yet the subjects of such collective action remain within the consciousness of capitalist society, i.e., remain mutually indifferent, antagonistic, egoistic, competitive, as well as continue to experience their world as structured through instrumentality. If this is the case, the account of the subject Marx's dialectical materialism posits, combined with the contention that only the

achievement of material transformation through action can alter consciousness, then Marx's account of action, politics, becomes the condition upon which the realization of the ethical imperative found in critique cannot be realized. Said otherwise, if we remain consistent with what Marx explicitly states, the internal relationship between the concepts of subjectivity, action, and ethics within Marx results in the centrality of action constituting the condition upon which transformative action is prevented from taking place.

Arendt defines the condition of subjectivity as natality. That subjectivity is natality means that the subject is the site of an inexhaustible potential for creation and newness. The human condition is one wherein the initiative of the subject is the realization of unexpected possibilities. Intimately tied to natality, then, is Arendt's concept of action. Action is the public activity of the subject, in word and deed. Given this intimate connection between natality and action, that natality is the condition of subjectivity means that the subject is, first and foremost, an actor. Likewise, for Arendt, action is the most political of all human capacities, meaning subjectivity is, constitutively, political.

Chapter IV reconstructs Arendt's politics beginning from this chain of connections between natality, action, and politics. It shows that the subject creates the shared world through action in public. Furthermore, it shows that in the creation of the world through action, Arendt indicates that the action of the subject, as politics, is directed toward engagement with the institutions of the public world, most principally the structures and institutions of governance and of shared social and political practice. Important to note, then, is that action is not merely action for its own sake. Rather, from

natality and action we glean a normative core of freedom and equality in Arendt's politics. The subject is free by virtue of her capacity to take action, to disrupt the normalized flow of the present and to bring the new and the unexpected into the shared world. From the capacity to act, i.e., from natality, comes an ethical imperative that the public world, its institutional framework, and its practices are only those which both respect and facilitate freedom and its equal recognition. It is further shown that Arendt formulates this public world as necessarily dynamic and in flux. This is so not only because of the fact of natality and of action, but because the normative core freedom and equality motivates politics to seek the continual revision of the political world toward the ongoing augmentation of freedom. Politics is, then, a constitutively unstable democratic form of practice and its aim is both the preservation of freedom in the public and its institutions and the creation of new possibilities for freedom in public space.

The normativity of freedom, and subsequently of its equal recognition in public, follows, for Arendt, directly from her concept of action. Subjects are free insofar as they have the capacity to act. In this sense, Arendt's concept of freedom is directly derivative of her concept of action. Action then, is the primary concept; freedom is its consequent. Consequently, in our broader terminology, politics is primary and ethics its subsidiary, for Arendt. It is shown that the relationship between action and freedom, politics and ethics, betrays itself such that the realization of normative core of Arendt's politics is stunted by the limitations placed upon it by the strict conceptual limitations of Arendt's conception of action. While the normativity of Arendt's politics, its ethical thrust, calls for the augmentation of freedom in the public world, Arendt establishes strict boundaries

upon action such that this augmentation cannot expand into spheres of practice and of life where impediments to the realization of freedom exist.

More specifically, if freedom follows from action, then the boundaries placed upon action as a concept are shared conceptually by freedom. Arendt emphatically states that action's proper sphere, and therefore the sphere of politics, is strictly in the public realm. Importantly, action and the public are defined in strict opposition to necessity and the private, for Arendt. The private sphere is the space of necessity; the entrance of necessity into the public is, for Arendt, the moment where the public is no longer a space of public politics, but rather of social behavior. If matters of necessity enter into politics, politics ceases to exist. Consequently, Arendtian politics must exclude all matters of necessity, meaning the scope of Arendt's concept of freedom must also stop where necessity begins. Over social matters, the normativity of freedom and equality can say nothing. Since Arendt perhaps most explicitly targets economics as a fundamentally private, social phenomenon, we take her remarks on poverty as the starting point for our critique. It is argued that by excluding issues of poverty and class from the political and, then, from politics as public action in engagement with the institutions of the public world, Arendt's politics produce internally problematic conclusions. While matters of poverty and class are structural elements of the shared world, and while they directly affect not only the conditions in which one lives but one's very ability to enter into and participate within the shared public world, Arendt renders these concerns merely private and, then, issues over which one ought to remain silent in public. So, while the ethics of Arendt's politics calls for ongoing contest and revision of the structures of the shared world toward the augmentation of freedom, it internally cannot address existing forms of

unfreedom within that world. This silencing over issues of poverty and class runs up against the stated ethical ends of Arendt's politics. This internal contradiction is the direct product of formulating the normativity of ethics as a derivative of action and of politics.

Part III (Chapter V) interprets Levinas as formulating an alternative relationship between ethics and politics. While ethics is indeed first philosophy for Levinas, he does not formulate the relationship between ethics and politics as one of strict primacy and subordination, nor is politics merely the derivative of or reducible to ethics. Levinas, it is shown, positions the subject between ethics and politics. This is to say that ethics and politics, at once and from different directions, are co-constitutive of the subject. The subject becomes subject as already burdened by ethical and political responsibility. Ethics ought to guide politics, i.e., politics ought to be ethical, yet ethics and politics stand in relation to each other as distinct, equally necessary, concepts.

We have discussed the relation between ethics and politics by beginning with the subject, explaining how subjectivity frames and defines the meaning of ethics and politics, and, from there, explaining the relationship between ethics and politics by showing how the subject's responsibilities to one or other as the first, primary concept problematically determined her relation to the second concept. In Kant and Rawls, we see that ethics, through the imposition of moral norms, depoliticized the subject such that the initial ethical aim of both political theories was rendered problematic. In Marx and Arendt, we find that, while each offers an ethical injunction within their political theories, establishing the action of politics as the primary character of the political limits ethics such that the transformative potential of both theories is lost within the self-undermining

conclusions the logic of each theory produces. Like each of these thinkers, Levinas offers a conception of the political which aims toward transformation and, what we might call, progress toward human flourishing. What sets Levinas's conception of the political, and the relationship between ethics and politics apart from the preceding theoretical accounts is the dual character of the subject as ethically and politically responsible. As we will see, that both ethics and the political are equally necessary responsibilities for the subject creates a productive tension between the two, as each interrupts and makes demands upon its other. What we claim is that, for Levinas, this tension between the poles of ethics and the political calls for a response (responsibility) from the subject, making the subject the intermediary between the two, resulting in a conception of politics which is ethical without lapsing into the conceptual pitfalls identified in Parts I and II.

To show this, we must briefly adjust our terminology. Ethics is defined as infinite responsibility for the singular other. Justice, for Levinas, encompasses the political as we have defined it broadly above. Justice will be shown to have two fundamental components: Institutional justice, meaning the institutions and structures of governance in the present, and ethical justice, meaning a sense of justice motivated by the normativity of ethics. It is argued that politics represents a third concept, from within Levinas's account of justice and is the bridge, created through the action of the subject, between ethics and justice (or, the institutional element of the political).

First, we will see that justice is a multifaceted term as Levinas employs it, at times representing the workings of the state and its institutions to ensure formal equality for all subject to it and at others evoking a more rich meaning tied deeply to the infinite responsibility of ethics and to the command of the other. We refer to these senses of

justice as “institutional” and “ethical” justice respectively. Both forms of justice are necessary on Levinas’s account, yet it is the ethical connotation which paves the way to a Levinasian politics. To show this, we will focus on the differing temporalities Levinas attributes to institutional and ethical justice. The diachronic time of ethical justice opens the subject to the possibility for an ethically utopian form of justice lying infinitely out of reach. It breaks with the synchronic historical time of institutional justice, exposing what more could be done, demanding a “better justice.” Next, we look to the body as the medium through which responsibility, the historical present, and the messianic future of ethical justice are united. Embodied political actors take up opposition to the prevailing material conditions of society generative of oppression and suffering, grasping at the trace of a futural ethical justice. From here we tie the priority of the body to Levinas’s conception of “work.” Work provides an intermediary concept through which the tensions between institutional justice and ethical justice are mediated. It is, necessarily, the activity of embodied giving – action – for the realization of a future greater than the present and beyond the subject’s time. Work represents the activity of political contestation, which is the investiture of the subject in the struggle against the failures of justice in the present. Through this movement we find that Levinas can indeed provide an account of political judgment, strategy, implementation, and contest which seeks to overturn the present historical moment for an ethical future rather than establishing a friend/enemy dichotomy, and which in fact provides an impetus for a positive and constructive political labor.

The subject between ethics and politics is, then, the active location of the interplay between these two concepts. Their relation is found in the active, embodied

political subject. In responding to the demands of ethical politics, Levinas places the subject between ethics and politics in the position of the realization of the transformative potential of the political. The tension between these two concepts is not a damning tension, as it is a productive tension constituting the impetus for the realization of an ethical political order other than the present.

It is argued that two divergences in approach between Levinas and the theories in Parts I and II are what allow Levinas to formulate an account of the relationship between ethics and politics without producing self-undermining conclusions, and therefore make Levinas helpfully instructive in understanding how these concepts ought to relate to each other. First is the insistence that ethics and politics are conceptually distinct, i.e., are not concepts that derive from one another or are merely subordinate to each other. Each of these concepts places distinct obligations upon the subject, and each of these responsibilities calls for action in response. An implication of this is the disentangling of politics from the political. In other words, politics shifts from a facet of the political to the concrete intermediary between the ethical and the political. It is, then, a third concept, and it is the conceptual link between the first two. From this formulation follows a second implication. The subject ought to be understood as between ethics and politics. By this we mean that the subject represents the possibility for the interaction between ethics and politics. She is the embodiment of the relationship between the ethical and the political, and she is so in ethical-political practice. Placing the subject in this active position between ethics and the political produces the conditions for politics capable of realizing the aims of a politics aiming to achieve human flourishing.

PART I

NORMS

CHAPTER I

KANT: THE MORAL LAW, OBEDIENCE, SELF-LEGISLATION

This chapter interprets the relationship between Kant's conceptions of the ethical subject and the political subject. It shows that Kant's conception of the political subject, or citizen, follows from his conception of the ethical subject. Primarily, it shows that, for Kant, the citizen has a moral obligation to obey the laws of the state, i.e., to grant consent to be governed and to obey the statutes of public right. Kant claims that in granting consent to governance and in obeying the law, the citizen remains autonomous because she obeys only laws which she, at the same time, has herself legislated and authorized. For Kant, this claim is plausible because he maps the structure of moral self-legislation – obedience to a moral law one has rationally given to herself – onto the structure of consent giving and to obedience to statutory law. It is argued that, on Kant's own terms, we ought to see that there is a false equivalence between these two forms of obedience and, because of this, the citizen is not a self-legislating, autonomous rational agent within Kant's formulation of the relationship between the subject and the state. This problem derives from Kant's insistence that the moral norm to consent and to obey is the first and primary political obligation of the citizen, therefore deprioritizing the rational activity and potential legislative action of the political subject.

To show this we begin with a rehearsal of Kant's ethics, with an eye toward how it shapes the ethical obligations of the rational subject. The rational activity of determining the moral law for oneself and willing it for its own sake is the source of the subject's status as autonomous. From here we move to Kant's explanation of the relationship between the moral law and the state. Kant explains that the law of the state ought always be subject to the moral

law, meaning the rationally necessary moral law has primacy over all legislation. The moral law determines, then, the regulative ideal of moral right, and the state, its constitution, and its laws (public right) ought always be created toward and in the image of this ideal. Since the realization of moral right is always merely hypothetical, i.e., impossible to perfectly embody in worldly laws, yet at the same time necessary, the law of the state ought always be under revision guided by and aimed toward the better realization of moral right in the laws of the state. Finally, for Kant, since public right is established from the judgment of the moral law, the statutory laws of the state are rational, and therefore ought to be endorsed by rational agents. Since the law is rational, ethical subjects, in their station as citizens (members of the state), must consent to be governed by them and to obey the strictures of public right.

It is argued that this duty to consent and to obey, in fact, undermines the subject's status as a rational agent because it requires merely the idea of humanity to derive an absolute duty to obey, rather than the activity of rational deliberation and the autonomous choice to consent to governance. Establishing the moral norm of consensual obedience as the primary political obligation of the citizen, then, violates the first principle of Kant's account of subjectivity: the rational, autonomous self as self-legislator. From here we offer a reworked interpretation of what may constitute the political obligations of the citizen, were we to reprioritize the active, rational nature of the subject, rather than stifling it from the start with mere obedience. We arrive at a potential interpretation of Kant's political subject premised upon the action and activity of legislative participation.

Kant's ethics presumes human beings are rationally capable of determining a necessary moral law and possess a self-authorizing will able to choose to act in dutiful obedience this law, for itself. For Kant, humans represent rational nature, meaning human beings possess the faculty

of reason and this faculty has supremacy over all others. Reason is, then, what establishes the highest end for human beings, as rational nature.¹ Unlike what Kant refers to as animal nature, humans are not bound by the limits of natural necessity alone. Rather, reason affords human beings with a spontaneous will; human beings are beings capable of setting ends for themselves in their actions and rationally choosing to endorse these ends through willing them in action. As rational, human beings exceed the determinism of nature.

For Kant, this means that human beings are not constitutively suited for the pursuit of happiness alone. Rather, the “true vocation” of humans as rational beings is to accomplish the one capability particular to reason: “to produce a will that is good, not perhaps as a means to other purposes, but good in itself, for which reason is absolutely necessary.”² Reason satisfies this condition in fulfilling an end capable of being determined and achieved only by reason itself. For this reason, Kant tells us that natural “inclinations,” or desires deriving empirically from our senses and embodied experience in the world, ought not be the guiding condition for human action. Inclination can provide motivation based solely on prudence; one acts from inclination in order to achieve happiness or to best pragmatically achieve some other end.³ Since humans are rational, acting for prudential concerns alone cannot result in objectively good actions or a good will. Prudence and happiness are matters of nature, sensual and emotional concerns which, deriving from faculties subordinate to reason, are overridden the concerns of rationality. To endorse and act for humanity’s highest rational faculty demands that actions derive not from natural necessity or contingent and self-interested inclinations. Instead, reason grants humanity the capacity to act for self-derived rational principles.

¹ Immanuel Kant, *Groundwork to the Metaphysics of Morals*, in *Practical Philosophy*, ed. Mary J. Gregor, trans. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 51.

² *Ibid.*, 52.

³ *Ibid.*, 68.

If human action is not to derive from contingencies, Kant deems that they must derive from necessities determined by reason itself (in contrast to natural necessity). Kant terms these rational necessities “duties” and instructs us that if they are to truly stand as rational they must be of “absolute necessity,” or, “apodictic laws.”⁴ Abstracting from any contingently derived motivation for an action results, for Kant, in the rational agent being left only with the pure edicts of rationality, as it sets them out as principles for action. Reason reflects upon a course of action or decision and filters all contingent material and, in so doing, is able to arrive at the proper principle for action.

Invoking the notion of a “proper” principle is necessary because Kant explains that, in opposition to all contingently beneficial or interest based “hypothetical imperatives,”⁵ reason determines necessary, or “categorical,” imperatives.⁶ Because reason functions to determine the good rather than the prudentially or consequentially beneficial, reason’s absolutely necessary edicts are themselves absolutely good in nature, or “good in themselves;” in Kant’s words, “if the action is represented as in itself good, hence as necessary in a will in itself conforming to reason, as its principle, then it is categorical.”⁷ In explicitly moral language, those principles for action which reason is able to determine for no other purpose other than that of being rational itself, an absolutely necessary imperative is issued – the act is morally obligatory (or, at least, permissible).

⁴ Ibid., 62.

⁵ Ibid., 67.

⁶ It should be noted that as principles for action, hypothetical imperatives are themselves rational. However, they are rational plans for action concerning contingent pursuits. So, while they are rational principles – since such principles simply are the content of practical reason – they cannot determine an absolutely *necessary* principle for action. It is for this reason that, if reason is what determines the good, Kant tells us categorically necessary imperatives have moral worth.

⁷ Kant, *Groundwork*, 67.

Categorical imperatives, by virtue of abstracting from any empirical or sensible input or motivation are, “a priori practical propositions.”⁸ The essential point for Kant is that any determination of an action or decision’s moral worth is derived through pure practical reasoning. As a priori necessary determinations of reason, and since reason is the faculty capable of determining the moral quality of principled actions, the absolutely necessary categorical imperative takes the form of a moral law, an absolutely necessary law. Kant tells us there is only one possible categorical imperative – one possible moral law. He formulates it as such: “act only in accordance with that maxim [subjective principle of volition⁹] through which you can at the same time will that it become a universal law,” for all rational agents.¹⁰ Duties, noted above, are derived and made necessary through the categorical imperative for action outlined as such.

The moral law so defined is reason’s test case for determining the moral permissibility of actions and the moral obligations of rational agents. It does so by forcing the rational agent to examine the principle behind her action and determine whether any aspect of her maxim is in contradiction with its possible status as a universal law determining the actions of all rational agents. Briefly, reflection upon the moral law is able to instruct the agent that, first, the principle behind her action falls into internal contradiction when imagined as a universal law of action.¹¹ If there is no conceptual contradiction within the maxim, the reflective procedure of the categorical imperative stipulates further that the agent ask, even if it is possible to imagine a

⁸ Ibid., 72.

⁹ Ibid., 73.

¹⁰ Ibid.

¹¹ Ibid., 75. Kant’s paradigmatic case is the case of making a lying promise. If one were to make a promise while knowing she does not intend to keep it, when universalized as a law for all agents Kant sees that this maxim destroys the very practice of promise keeping. This is not to say that the contradiction is derived from a potential empirical consequence, but rather that the maxim is conceptually self-contradictory: if the concept of the promise conceptually implies repayment, and a promise is invoked but contradicts this predicate, then Kant sees that the very invocation of the concept of a promise in this case is incomprehensible.

world in which this maxim were a universal law for rational agents, would rational agents will that it be so? Answering in the negative precludes the possibility for moral permissibility.¹²

Kant contends that as rational beings able to derive rationally necessary laws for action, rational agents cannot but, then, find themselves motivated to endorse and adhere to them. This is to say that as reason determines our moral duties, we recognize them as rationally necessary and, consequently, will them for their own sake as duties; moral action is action done for duty, not merely in conformity with it.¹³ Rational agents “respect” rational necessity and, therefore, are motivated to will the rationally necessary moral law as an unconditional obligation.

The notion that rational agents derive the moral law from the use of their reason alone and, subsequently, will the duty shown by such a law, Kant says, “the will of every rational being [is] a will giving universal law.”¹⁴ Humans, as rational agents obeying the moral law, both rationally legislate the law they are to obey (rationally deriving the moral law) as well as obey that self-derived law (willing the act for duty’s sake). Moral agents are, therefore, rationally “autonomous” authors of their own laws – self-legislating moral agents following only those edicts, which they have themselves derived.

The principle of autonomy as such shows us how it is that Kant derives human freedom from obedience to the obligations of the moral law. Moral agents utilize reason to determine the moral law and, in so doing, refuse the influence of any external will or inclination – anything heteronomously influential – within their practical reasoning. As able to derive necessary laws through their autonomous use of reason, the agent determines the laws she will obey. In obeying the moral law for its own sake, for the sake of duty, her will is free of any influence or coercion

¹² We note these possibilities for contradiction in the application of the categorical imperative to a given maxim because it will become relevant below in the discussion of Kant’s rationale for stating that it is an a priori necessity that people leave the state of nature and consensually enter into a state.

¹³ Kant, *Groundwork*, 53.

¹⁴ *Ibid.*, 81.

from external forces. In their obedience to the moral law, rational agents are free because their will is unaffected by any motive or influence other than the use of their own reason and their own motivation to will their duties in respect for their own rational nature, i.e., their will is purely rational and free.

Rationally free actors are, then, not mere things. Essential to Kant is that rational agency results in “personality” or in the agent’s status as a “person.” Persons differ from “things” because in willing the good for itself, persons become what Kant terms a “good will.” The good will is the only entity in the world, which is “good without limitation,” or, unconditionally good.¹⁵ Human beings as rational nature are not good in light of any external or derivative good. Rather, unlike objects, the good will is inherently valuable as an autonomous self-authorizing source of necessary moral laws. Thus, we can lend a bit of substantive content to the abstract moral law by noting that, by virtue of being valuable in themselves above any contingency, Kant insists that, “every rational being exists as an end in itself, not merely as a means to be used by this or that will at its discretion.”¹⁶ Human beings are to be respected as valuable for no instrumental purpose alone. Rather, all action, if it is to be moral, must respect the inherent “dignity” – the value beyond any use – of humanity. Human beings are unconditionally valuable and, thereby, inviolable by virtue of their rational status as free beings.

We have explicated Kant’s basic account of the moral law and the rational agent’s position in regard to it at some length because doing so allows us to clearly see the nature of ethical obligations. Ethical agency is ceaselessly constrained by the obligation to treat humanity always as an end in itself. This amounts to an ethical obligation to honor and respect the freedom and autonomy of all rational beings. The principle of humanity as an end in itself, then,

¹⁵ Ibid., 49.

¹⁶ Ibid., 79.

sets the boundaries of permissible actions, actions able to pass the universalizability criterion of the categorical imperative. For Kant, this amounts to the following obligations: duties never to violate the dignity of humanity in oneself or in another by acting in such a way that autonomy is violated, or wherein oneself or another is treated merely as an exchangeable tool to be exploited for a use value. At minimum, this requires that one not violate the capacity for free, rational choice found either in another or in oneself; respect for free choice, then, precludes coercion. Finally, one ought to promote the happiness of others insofar as one is reasonably able to do so.¹⁷

These obligations and the accompanying moral edifice from which they are derived do not simply outline Kant's ethics, but also lead to a final ethical ideal which itself is instructive in the transition from ethical obligations to the state and political obligation. This is Kant's hypothetical "kingdom of ends." The concept of a kingdom of ends is the conceptual result of every rational being regarding herself and acting as a rational self-legislator of universal moral law. Kant says, "By a kingdom I understand a systematic union of various rational beings through common laws."¹⁸ If this union is viewed in a manner in which all of the idiosyncratic private ends and personal differences between agents are abstracted from consideration, Kant contends that the remainder is "a whole of all ends in systematic connection."¹⁹ The idea of a kingdom of ends represents the ideal of a unity of individuals in which all ends harmonize together beneath a universal and necessary law. Under such circumstances, the actions of each agent fail to conflict with the autonomy and dignity of any other individual, reaching a perfected state of moral community. Kant concedes that this kingdom of ends is only ever hypothetical or "possible." This is significant, however, because in establishing the kingdom of ends as the

¹⁷ Ibid., 74-5.

¹⁸ Ibid., 83

¹⁹ Ibid.

“regulative ideal”²⁰ for moral agency, Kant is instructing us that in matters of moral right one’s actions ought always aim toward this perfect union of wills.

The kingdom of ends, then, resembles the formal ideal of the state as Kant formulates it, pointing to the intersection between the ethical obligations of rational agents and their concurrent political obligations. In order to arrive at the specific influence of ethical obligations upon the political obligations of rational citizens within the state, we must take brief detour through the architecture of Kant’s state and the rational motivations of agents for entering it. Kant invokes the contractarian tradition of theorizing a hypothetical state of nature. Echoing Hobbes, Kant explains that the state of nature is a state of violence. Prior to an external legal authority, humans have a natural (non-rational) inclination toward doing violence upon one another.²¹ Devoid of public law, the state of nature is a state devoid of justice (note that this is not injustice, since injustice would presume an established conception of justice). Without external political legal authority (public right), Kant explains that each individual “has [his/her] own right to do what seems right...and not be dependent upon another’s opinion about this.”²² Without coercive authority able to prevent violence between individuals, Kant explains that this concept of the state of nature, a priori, produces violence, competition, and war.²³

For this reason Kant sees that it is, likewise, an a priori necessity that moral persons – rational agents, as rational – will agree to leave the state of nature and form a civil state. By this he means that rational persons do not require an empirical experience of the state of nature or of violence to understand that such a state ought not exist.²⁴ As rational, rational moral deliberators

²⁰ Ibid.

²¹ Immanuel Kant, *Metaphysics of Morals*, in *Practical Philosophy*, ed. Mary J. Gregor, trans. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 455.

²² Ibid., 456.

²³ Ibid.

²⁴ Ibid.

identify that a state of violence violates both their own freedom as autonomous individuals as well as hinders the freedom of others, as all are hold license to interfere with, harm, or exploit whomever they choose. Such a state ought to and will be rejected by rational agents because, as rational agents cognizant of and obedient to the moral law, it fundamentally violates the condition that all of one's actions aim toward a possible kingdom of ends comprised of dutiful moral agents.

That there ought to be a conception of public right (a legal framework of the state) is a rational necessity for rational agents. Following from the rational necessity of leaving the state of nature, Kant says, “[I]t is a basic principle of moral politics...that a people ought to unite itself into a state in accordance with the ideas of freedom and equality as the sole concepts of right, and this principle is not based on prudence, but rather on duty.”²⁵ Leaving the state of nature is a moral imperative in that it overcomes humanity's natural inclination for self-interest and conflict and creates the conditions for rationally driven, morally appropriate civil life.

Kant defines the state as “the whole of individuals in a rightful condition.”²⁶ A rightful condition is, first, a condition in which the autonomy of free rational persons is respected. Kant explains that by entering into mutually consensual state persons forfeit their natural or “wild” freedom and submit to an enforceable coercive state power. However, this forfeiture of natural freedom is not a violation of individuals' rational autonomy – what is morally significant. He says, “Resistance that counteracts the hindering of an effect promotes this effect and is consistent with it. Now whatever is wrong is a hindrance to freedom in accordance with universal laws.”²⁷ Hindering natural freedom – the freedom of the state of nature – is in fact a promotion of the

²⁵ Immanuel Kant, *Toward Perpetual Peace*, in *Toward Perpetual Peace and Other Writings on Politics, Peace, and History*, ed. Pauline Kleingeld, trans. David L. Conclasure (New Haven: Yale University Press, 2006), 101-2.

²⁶ Kant, *Metaphysics of Morals*, 455.

²⁷ *Ibid.*, 388.

rational freedom – obedience to rationally universal laws – of individuals. State coercion is justifiable, then, because it promotes the autonomous execution of self-legislated laws by imposing external laws hindering individuals’ capacities to coerce, violate, or exploit each other through exertions of power or violence characteristic of the state of nature. A freedom that hinders the freedom of rational freedom (wild freedom vs. rational freedom) is morally wrong in light of violating the rational nature of humanity. So, even while state coercion is a “resistance to freedom” it hinders freedom of the immoral kind. It is “universal coercion in accordance with the [rational] freedom of all,” and makes possible the conditions whereupon rational individuals’ interests and ends can, possibly, come into concert or harmony.²⁸ Kant states, therefore, that state coercion is synonymous with “right.”²⁹

Kant’s concept of right is intimately connected to the rational moral law and the self-legislating capacities of autonomous individuals. While the empirical state is founded upon statutory edicts, Kant explains that the demands of right derive from the “idea of the state” which ought always to be in accordance with “pure principles of right.”³⁰ In other words, the concept of the state based on pure rational principles is the regulative ideal toward which all actually existing states ought to aim. Morality as pure, rationally necessary imperatives constitutes the substance of this ideal. Kant explains, “True politics can take no steps forward without first paying tribute to morality, and although politics in itself is [an] art, the union of politics and morality is no art at all. For morality cuts through the Gordian knot that politics is unable to untie[.]”³¹ This is the case because moral reasoning represents the highest level of practical

²⁸ Ibid., 389.

²⁹ Ibid.

³⁰ Ibid., 457

³¹ Kant, *Perpetual Peace*, 104.

reason.³² As we saw in the discussion of the moral law, within practical reasoning matters of rational necessity – of which only morality can derive – supersede all prudential or technical concerns. Practical reasoning, the reasoning through which public right is derived, ought always first be guided by moral reasoning, with prudential reasoning following and in accordance with morality.

The hierarchy between morality and technical reasoning within political matters is most explicitly stated in Kant’s distinction between the “transcendental concept of right” and positive statutory laws considered as an empirical “juridical science.”³³ The concept of right corresponds to rational “obligations,” or “the necessity of a free action under a categorical imperative,” the “matter” of which consists of particular duties.³⁴ The concept of right concerns the relations between autonomous persons insofar as their actions can have influence upon one another. It is, then, the “moral concept of right.”³⁵ Right as a pure moral concept of practical reason determines categorically necessary duties.

The juridical-scientific determination of statutory law, on the other hand, deals only in “technical reasoning,” reasoning able to determine the means toward a contingent end. Since moral right determines necessary principles of action which are good in themselves (not toward any other purpose), the technical reasoning of juridical law is necessarily subordinate to the edicts of the moral law, expressed as moral right, i.e., moral imperatives concerning matters of politics. Remembering that the aim of the state is to protect the freedom of its citizens, and this freedom is freedom in the morally relevant sense of persons as autonomous rational agents/persons, the end of all technical reasoning concerning the constitution of the political-

³² Ibid., 94.

³³ Kant, *Metaphysics of Morals*, 386.

³⁴ Ibid., 377.

³⁵ Ibid., 387.

juridical order is to cohere with the categorically necessary demands of the moral law. The aim of public right, understood as the “system of laws” for a given state,³⁶ is to “stay on the path of duty,” i.e., to cohere as best as possible with the moral law as it presents itself in matters of justice as the moral concept of right. A rational order of public right “couples” moral right with politics, making “the former [the] limiting condition of the latter.”³⁷ Where matters of political prudence supersede matters of moral right in the constitution of laws politics becomes nothing more than technical reasoning and is, therefore, not *fully* rational in the sense of reason’s highest capacity – legislating in dutiful obedience to the moral law. Public right under such circumstances is, then, not worthy of autonomous consensual endorsement by rational agents.

The upshot is that the regulative ideal of the state must be guided by the moral law and the ideal of a kingdom of ends. All statutory laws within the system of public right must be rational in the sense that they are limited by and composed with regard to the ideal of the moral law – respect for the dignity and freedom of humanity – as their end. Crafting the laws of the state ought always take freedom as an end in itself as its primary concern; in Kant’s words, politics, “must start from this formal principle,” which is the categorical imperative outlined above.³⁸ If public right is constituted as such,

“there can be no dispute between politics as the applied doctrine of right and morality as the theoretical doctrine of right (and hence no dispute between theory and practice), unless one were to regard morality as a universal doctrine of prudence...that is, to deny morality exists at all.”³⁹

³⁶ Ibid., 455.

³⁷ Kant, *Perpetual Peace*, 96.

³⁸ Ibid., 100. Kant contrasts this with beginning from the “material” principle, which is the contingent material end a law wishes to achieve.

³⁹ Kant, *Perpetual Peace*, 94.

Public right properly constituted always accords with the moral concept of right and, therefore, the moral law. Public right, in such circumstances, is necessarily rational. As constitutively rational it affirms what reason morally demands – respect for human freedom.

The political-juridical order of the state is able to adhere to the categorical imperative of moral reasoning (here, endorse only those laws which could be universalized without contradicting rational autonomy and freedom of humanity) because it is derived principally from the formal principle of morality. Kant explains that a law that properly accords with the moral concept of right is one where, “If I abstract from all the material aspects of public right (regarding the various empirically given relations among individuals in a state...),” the formal principle left as a remainder does not violate the freedom of any affected parties.⁴⁰ Laws obedient to the moral law are those capable of passing this “experiment of pure reason.” Any law the principles of which conflict with the autonomy of those persons affected by it is to be deemed unjust, i.e., in violation of the moral concept of right and, therefore, not rationally endorsable.⁴¹

Having sketched the concept of a state grounded in the moral conception of right, we have the resources for outlining the explicit political obligations of persons within that state. Upon entering into the civil contract and submitting themselves to state coercion, individuals become “citizens.” Citizens, as political (in addition to moral) subjects possess, “lawful freedom,” meaning, “the attribute of obeying no law other than that to which he has given his

⁴⁰ Ibid., 104.

⁴¹ Ibid., 104. From this requirement Kant derives a theory of negative liberal freedom. Briefly, Kant explains that within a system of public right so ordered, “[A]nyone can be free so long as I do not impair his freedom by my external action, even though I am quite indifferent to his freedom or would like in my heart to infringe upon it.” Kant, *Metaphysics of Morals*, 387. When public right as a system of laws is properly limited by moral right, citizens are to be granted license to act in any way they deem fit as long as it does not infringe upon the rights of others. Political right takes the form of a guarantee of non-interference.

consent[.]”⁴² Freedom in its political sense conforms to the logic of freedom in its moral sense. Individuals are free because they are rationally able to legitimate and obey rational laws. Granting consent to rational laws (laws in accordance with moral right) mirrors the autonomy of morality: even while obeying an external law, one obeys only herself when she does so from the free exercise of her reason, itself instructing her that endorsement of a rational law is the proper (morally correct) decision. Put otherwise, just as rational moral agents cannot help but respect the moral law because, as rational, they recognize its unconditionality and necessity, rational citizens identify the rational nature of the law within a state ordered by moral right and, again as rational, cannot but, necessarily, endorse the law. In this sense, rational political subjects self-legislate the laws they obey, remaining autonomous; they remain free by rationally endorsing a legal order which is itself premised on the unconditional value of human freedom.⁴³

If public right is premised upon the moral right and therefore creates conditions for the flourishing of autonomous individuals as free rational persons, then the self-legislative capacities of the citizen constitute her explicitly political obligations. It is a categorical imperative that citizens both endorse and obey moral right in the form of statutory laws. As it was a priori necessary for her to leave the state of nature and enter a contract granting respect for her freedom and the freedom of others, one is obligated to consent to the law because moral right is the legal instantiation of the rational respect for persons’ freedom. Since it is rational necessity to dutifully endorse the moral law and the moral law is the constitutive principle through which law is crafted, the rational citizen ought to consent to and dutifully obey the juridical law, via respect for the authority of the moral law.

⁴² Kant, *Metaphysics of Morals*, 457.

⁴³ It is for this reason that Kant explains that “the people” constitute the “legislative power” of the state. They are able to do so through the appointment of representatives to a parliament, who, in turn, craft and protect a morally good system of public right. Kant, *Metaphysics of Morals*, 457.

To respect and consent to the law is, therefore, to obey it. If the law represents moral right and moral right represents rationally necessary moral duties, then failure to obey the public right is at the same time a failure to will morally necessary obligations.

A final form of political obligation remains. If it is a categorical imperative that citizens consent to and obey the law, then it is likewise a categorical imperative that the executive authority of the law continues to ensure that the public right remains morally bound. For Kant, public right cannot be justifiably altered or revised except by the executive “ruler” of the state. Therefore, because the state pursues a regulative ideal pointing toward moral perfectibility, moral right demands that the state ensure it has the “best possible constitution.”⁴⁴ Consequently, heads of state are obligated to critically identify flaws in the constitution of the state. To do so is to seek out elements of that constitution failing to accord with the demands of moral right. If such a flaw is found, Kant says it is a duty to remedy it by revising the constitution or the law in question, regardless of whether doing so contradicts the “egoistic” interests of the executive itself.⁴⁵

For Kant, moral obligations structure all political obligations to which citizens are bound. The rationally necessary duties of ethics carry over into politics as the constitutive conditions for all political duties. The moral law is not simply a matter of private morality and the morally self-legislating capacities of rational agents. It extends itself into the political sphere as the arbiter of the political obligations necessitated by the fact of free individuals living together in a shared political space.

⁴⁴ Kant, *Perpetual Peace*, 96.

⁴⁵ *Ibid.*

In sum, Kant explains both the form of the state and the obligations of the citizen from within the purview of practical, i.e., moral, philosophy. Moral persons are also citizens insofar as they exist within a state and, as citizens, persons have a rationally necessary moral duty to consent to the governance of a state itself governed by the moral law. The obligations of governing consist of crafting the juridical and statutory framework of public right toward the realization of moral right, or of the dictates of the moral law. This movement of the law toward the moral law is both necessary and merely hypothetical, meaning, as a regulative ideal, the achievement of moral right in the law is necessarily imperfect and incomplete, yet a project that, likewise necessarily, must be continually pursued and perfected. The core of Kant's account of the political obligations both of citizens and of the state is the primacy of the moral law, and this account is premised upon the necessary duty of consent giving and obedience insofar as they are rational, moral necessities.

Yet, that Kant hinges this account upon the moral duty to obey, as an a priori rational necessity, creates problems twofold, both pertaining to the status of action within his account of the citizen. First, consent follows merely from the concept of humanity as rational, meaning within Kant's account consent requires neither active judgment nor willing on the part of the citizens. Second, since the primary obligation of the citizen is to obey, and since Kant frames obedience as self-legislation, Kant does not account for active political participation on the part of the citizenry, but rather leaves the work of creating law in the image of the moral law solely to the institutions of the state. However, following from his own premises, we can show that this ought to result in the citizenry judging such laws to be heteronomous (i.e., not self-legislated) and that an active, participatory citizenry ought to follow from Kant's account of the relationship between the moral law and public right. We address each of these concerns in turn.

The first of these arguments maintains that the rational choice to grant consent to, and therefore to obey, the law does not actually constitute an act of choice and rational decision on the part of the Kant's citizen. Rather, Kant's argument assumes its own conclusion within its premises: no rational being would will that she live in a state of lawlessness, since lawlessness will result in violations of her moral freedom and it would be irrational to will such a condition; humans are rational beings; therefore, humans must will that they live within a civil state, i.e., grant consent to be governed. Note that this argument requires merely the ideas of humanity, defined as rational, and a concept of the state defined as rational in opposition to the irrationality of its absence. The point of contention is that Kant appeals merely to the hypostatization of human beings as a concept, indeed requires merely the concept of humanity, rather than concretely existing rational human subjects. The very idea of humanity alone, necessarily and a priori, produces the conclusion that consent to be governed is intrinsically built into the idea of humanity as rational. If a human subject exists at all, from within Kant's argument, that subject always already exists as a consenting self because, prior to the necessity of any empirical experience, i.e., prior to this subject either having to exist in a world at all or engage in practical rationality, the determination that consent is necessary is already conceptually determined for her. The rational subject is already necessarily subject *to* the authority of the law insofar as she is defined as rational. The moral judgment that one ought to authorize and obey the state is a conclusion the validity of which is determined, necessarily, prior to the need of any subjective rational activity. The idea of the rational self is already the idea of the self as governed, specifically governed by state authority. The idea of the human being as rational is already the idea of the human as citizen.⁴⁶

⁴⁶ It could be objected that this is only true if the subject finds herself within a free state, granting civil liberties and the assurances of negative liberty, and which derives its statutory law from the basis of moral right, i.e., from the

The implication of this is that, while Kant maps the form of moral self-legislation onto consent giving, the forms of moral self-legislation and of consent giving are not identical. In other words, while one is autonomous in rationally deriving the moral law she wills to obey, therefore obeying only herself, that the subject rationally ought to find herself as always already having consented to the authority of governance she does not engage in the same self-authorizing act of rational choice and of willing. As we saw above, the ethical subject is free in her obedience to the moral law because she is faced with the real choice between the natural dialectic of reason and inclination. Morality, for Kant, is practical reasoning because concretely existing, in other words, worldly, subjects must reason their way to the morally right conclusion and choose to will this determination of reason into action, in the face of a genuine choice between rationality (morality) and irrationality (happiness, pleasure, self-interest, and so on, i.e., inclination). The moment of autonomy resides in the choice to obey the moral law over and against all other open and available options, and in choosing to act for the moral law. Autonomy resides in the moment of agency, or, in other words, in both rational activity and the agential action of the will. While Kant does argue that, as a rational subject one ought to choose the rational course of action and feel a necessary, a priori, sense of duty to reason, it remains equally plausible that any agent may choose irrationality over reason, yet in either course she is subject only to her own authority. Importantly, to self-legislate as a moral agent requires an agential choice between at least two available options, found in the active rational deliberation and willing of the agent, and this act of deliberation and willing is autonomous because it is never determined in advance or from without.

moral law. Therefore, the rational subject is not simply subject to any state authority, but only those that could be rationally endorsed. While true, this objection misses the point that the implications of the present claim, outlined in what follows, apply even to such free and rationally estimable states.

So, while it does follow internally from the idea of the subject as rational that she is a moral agent, she is only moral because she agentially determines the proper principles for action and chooses to act for the moral law in the presence of the choice to act otherwise, whereas, if what we saw above follows, the concept of the citizen is already predicated within the idea of the rational subject apart from any agential choice or rational deliberation. Moral self-legislation requires active determinations of reason and the will, whereas the granting of consent is always merely hypothetical (meaning only the subject could determine that she ought to authorize the state) and pre-determined from within the concept of the subject as rational. The status of citizenship is already conferred upon the subject from the start, and the obligation to endorse this status constitutes a moral duty she is faced with, rather than a subjective determination of rational activity and an act of her will. This is not to say that the subject cannot choose to violate the edicts of any given statute, which she can, but to say that the subject cannot choose other than to submit to the status of citizen because as a rational, ethical subject she is already conceptually constituted as citizen and obligated to consent. In the case of her duty to consent to governance, this duty is a duty the subject finds determined for her, not a duty she derives from her rational activity.

Quite apart from her other moral choices, wherein authority resides within the subject's choice in either direction, granting consent does not constitute a genuine choice and it determines the subject as subject to the authority of another – the state. Unlike the structure of moral choice, to submit to the authority of the state in consent and to follow the statutory laws of that state, even if they align with the regulative ideal of moral right, is not to obey only those laws the subject gives to herself. The structures of moral and political self-legislation as Kant formulates them, then, are not identical. If this is so, citizens are given the obligations submit to the state

and obey its laws, making these obligations heteronomous. As Kant grounds his conception of the political subject on the foundation of the moral duty to consent he renders the subjects of the state merely hypostatized ideas of human beings and, in so doing, removes the very activity of rational deliberation and of the choice to will from his account of political obligations. The privileged position of the moral duty to consent, as Kant formulates it, then, leads his account of the political obligations of the citizen into internal conflict with the account of morality upon which it is premised.

The above leads to our second point of contention: Having defined the moral duty to consent and to obey as the principle political obligation of the subject, Kant's account of the role of the citizen within the civil state runs up against the account of the citizen his premises, perhaps, ought to derive. That obedience is the primary moral duty of the citizen results in an account of the political role of the citizen as passive, yet within Kant's conceptual framework are the tools for a reimagined, active, and participatory citizen. Participation within the formation of the law produces an alternative account of political self-legislation and, from there, of political consent.

We have seen that the moral law is both the criterion by which statutory law is judged, as well as the normatively guiding principle upon which such laws ought to be constructed. The moral law, however, only exists as the determination of the rational subject, i.e., it exists because the rational subject, indeed all rational subjects, as rational nature can autonomously and individually determine duties through rational deliberation. As all persons are rational, all persons possess an equal capacity for rationally determining moral duties. Each subject is, then, the site and source of the moral law and the moral law does not exist outside the rational activity of these subjects.

If this is the case, then as moral law creates the regulative ideal of moral right – the ideal of a legal framework perfectly embodying the kingdom of ends – this conception of moral right is, likewise, the rational, deliberative product of the subject’s reflections and determinations. The idea of moral right does not exist apart from the active reasoning of persons in reflection upon how the moral law could, hypothetically, perfectly govern and shape statutory law. Moral right, is, then, the result of the rational activity of the subject, and, from the above, all persons equally possess the capacity for such rational deliberation. If moral right is the standard by which existing law is judged and, more importantly for our purposes, the guiding principle by which the statutes of public right ought to be constructed, then it follows that all persons also share equally in the rational capacity for critique of public right as it is embodied in the presently existing legal-juridical framework, as well as the rational capacity to rationally determine and craft the laws comprising the content of public right. Therefore, if the moral law arbitrates the construction of public laws, and if the moral law exists only insofar as it is the determination of persons and persons share equally in the capacity to derive such rational determinations, then all persons equally share the capacity to construct the law – to legislate – and to do so toward its proper end (moral right). If all subjects are capable of rationally engaging in the construction of the law, then all are likewise capable of participating in governance, of legislating the laws they will obey, practically and actionably as political actors, political subjects.

Following from the above chain of inferences, if the moral law makes necessary the existence of public right, as Kant claims, and if the moral law necessarily obligates public right to not only conform to its edicts but embody it as perfectly as possible, then since the moral law is made possible only through the reasoning of the subject and in the determinations of her will, the moral law also obligates the subject who determines it to participate in the formation of

public right as the condition for the possibility of the influence of morality upon and in the law. All possess this capacity equally; therefore all likewise possess this political obligation equally. Given that the public right can never perfectly embody moral right, and yet it is imperative that it always be reformed toward a more perfect reflection of moral right (i.e., moral right is a regulative ideal guiding the practical duty of crafting the law) the subject as political subject ought to participate directly within the ongoing process of crafting and reforming the law toward the ideal of moral right. In other words, self-legislation in the political sense no longer means the hypothetical determination that one could deem the statutes of public right rational, but the act of willing the law into existence through the use of reason, thereby obeying only laws which she has practically (rather than hypothetically) and actively legislated. Following from the relationship Kant establishes between the moral law, the state and public right, and the subject as rational nature is a conception of the subject as political subject wherein that subject is, in her rational participation in the formation of the law, the active bridge linking the moral law and its attendant concept of moral right to the existing laws of the state. This link ought to take place through direct and ongoing participatory reformation of the law toward a more perfect approximation of the ideal of moral right.

This conception of political obligation stands in stark contrast to Kant's own contention that the primary political obligation of the citizen is obey those laws she could esteem as rational. In the interpretation offered here, the duty to consent is not realized in the hypothetical self-legislation of obeying rational laws, but in the active rational participation in their formation. Further elaborating upon the nature of such participation invites a further critical engagement with Kant's conception of legislative authority.

It is worth noting that, for Kant, if one is a citizen then one is linked to the legislative authority of the state. To be a citizen conceptually entails that one is “fit to vote.”⁴⁷ Citizenship, then, entails the possibility that one is fit to be an “active citizen” and active citizenship entails, “the right to manage the state itself,” or, in other words, “the right to organize it or to cooperate for introducing certain laws.”⁴⁸ Kant requires that the state be “representative” in form, i.e., that the legislative power of the state is held within a legislature and that, at least some, citizens utilize the vote to select representatives within the legislative body.⁴⁹ If this is so, then we can connect the concept of consent to the requirement of representative legislation. For Kant, if all citizens have consented, and if the arm of the state tasked with the creation of the law is representative, and furthermore if representation is at least potentially voted upon, then if the citizen obeys the such laws, she hypothetically obeys only laws she has authorized. In this sense, for Kant, the “person” of the legislator represents the “united will of the people.”⁵⁰ That this is so funnels back to the original concept of consent.

However, that Kant’s state requires a legislative body and that active citizens participate in this legislative body ought not be sufficient, on Kant’s own conceptual premises, as we have established them. Note first that while Kant formulates active citizens as voting members of a legislative body, he is explicit that this by no means entails that all citizens are capable of inclusion within the practice of crafting the law. In fact, he is quite clear that it does not conflict with the freedom or equality of human beings for broad swaths of the populace to comprise classes of mere “underlings of the commonwealth” – “passive citizens” without a right to vote or

⁴⁷ Kant, *Metaphysics of Morals*, 458. As we will see, however, this does not entail that all are granted the vote, or that Kant advocates universal participation in the formation of the law for all citizens.

⁴⁸ *Ibid.*, 459.

⁴⁹ Kant, *Perpetual Peace*, 76.

⁵⁰ Kant, *Metaphysics of Morals*, 457.

participate in lawmaking.⁵¹ While Kant claims that the lack of a vote and participation in governance remains internally consistent with the freedom of citizens because citizens have granted rational consent, thereby authorizing the state to legislate laws citizens must obey, such a condition ought to be internally inconsistent with the status of citizens as the medium through which moral right and public right are practically and actionably linked within the law.

However, even were Kant to grant a universal vote, based on the argument that the citizen is the link between the moral law and statutory law, representative legislation ought still to compromise the self-legislating authority of the citizen. This is so because, contrary to Kant's conception of active and passive citizenship, all citizens, as human subject and therefore rational nature, possess the capacity for practical statutory legislation. If all possess this capacity equally, then even representational governance wherein all have an equal opportunity to select the members of a legislating body, ought to produce heteronomous laws. While Kant's conception of representational governance remains consistent with the self-legislating autonomy of the rational subject as citizen because consent has authorized external parties to create laws to which one is rationally bound, we have argued that the moment of consent as Kant formulates it never actually constituted an act of willful consent on the part of the citizen. If this is the case, then the citizen, as both capable of participation in governance and, we have argued, positioned as the conduit for the realization of the moral law within the law of the state, merely receives the law from an external source. If Kant's argument for the nature of consent is unsatisfactory, then laws received externally ought to be considered heteronomous and, therefore, the citizen ought to experience herself as legislated to, rather than self-legislating. Given that all citizens have the

⁵¹ Ibid., 458. Kant is also clear that "the democratic form of sovereignty," i.e., universal participation in law making, renders Republican governance impossible because it misunderstands the concept of "the ruler," as all strive to attain the single position primacy within the state. For this reason Kant claims representative government is actually best when the number of governors is smallest. Kant, *Perpetual Peace*, 77.

rational capacity, even the obligation, to participate in the creation of the laws they obey, this conclusion should be internally inconsistent with Kant's formulation of the subject and of the law as necessarily guided by the authority of the moral law because it lacks the participatory action of the citizenry in crafting laws of their own making. In short, the general will of a representative legislature is neither "united" nor "general" will of the body politic, from within Kantian terms.

Given the premises for a rethought Kantian conception of political obligation presented above, the concept of the general will has a markedly different complexion from that which Kant himself offers. If all citizens hold the equal capacity for rational reflection upon the principles of action, then all citizens share the equal capacity for rational deliberation over the principles of governance. The formation of a united general will, then, is the shared practical work of a deliberative body consisting of all citizens voices equally, and these voices propose, critique, and ultimately endorse or reject, proposed statutes for their collective governance. The general will in legislation, then, consists of those proposals the collective body politic not only could, hypothetically, endorse as rational, but do in fact rationally endorse and authorize in the act of collective legislation. The Kantian conception of the formation of the law, indeed of citizenship and of political obligation, apart from Kant's own intention, approximates Rousseau's concept of the general will and of a direct, participatory public legislation based on shared public interest and the deliberative formation of consensus around the authorization of laws embodying this interest.⁵² In the Kantian case, however, the general will is not formed on prudential concerns,

⁵² From within the present interpretation of Kant, Kant and Rousseau share both the motivation for an account of the citizens active participation in governance and, if our interpretation of Kant holds, the basic premises of its realization. Rousseau explains the "social contract," i.e., the mechanism for granting consent to be governed, as the answer to the following problem: "[To f]ind a form of association which defends and protects with all common forces the person and goods of each associate, and by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before." Jean-Jacques Rousseau, *On the Social Contract*, in *The Basic Political Writings*, ed. and trans. Donald A. Cress (Indianapolis: Hackett Publishing Company, 1987), 148. Like

but is, rather, judged on the basis of the concept of the kingdom of ends. Rational principles for the law and, therefore, the statutory codification of those principles are premised upon whether they stand up to the scrutiny of the moral law, and whether they move public right closer to the ideal of moral right in its status as the pure moral principles of right. Finally, in the action and activity of rational public deliberation and in the act of authorizing such statutes into being, we find a reworked practice of consent giving wherein citizens truly self-legislate and, therefore, remain autonomous while bound in obedience to the law.

We have arrived at two primary conclusions, the latter of which follows from the first. First, Kant establishes the moral duty to consent to state and to its laws as the central political obligation of the citizen. From the concept of consent as rational moral endorsement of the law follows the claim that one is autonomous in her obedience to the law, morally and politically. However, Kant's concept of consent is not formulated as a choice for the citizen, but as a pre-

Kant, the motive for the formation of the state is found in the moral demand that the citizen obey only laws she can be said to have legislated herself and, in so doing, retains her freedom even while agreeing to obey. More importantly for the present argument is the proximity between the account given above of the citizen as legislator, Rousseau's account of legislative sovereign he claims is necessary for the preservation of freedom in obedience to the law tracks the account of the reworked Kantian political subject and the collaborative legislation of the body politic which follows from it. On this point, Rousseau explains, "[I]n place of the individual person of each contracting party, this act of association produces a moral and collective body composed of as many members as there are voices in the assembly, which receives from this same act in its unity, its common self, its life and its will." Ibid. Law is created through the collective legislative will of the body politic, and that legislative will is the general will because each citizen has a hand in forming, consenting to, and authorizing the law, and therefore none obey any will but their own. While Kant and Rousseau would overlap in both motivation for placing the legislative general will at the center of the account of the citizen's relationship to the state, and while both would agree that this will is determined by each lending her voice to the legislative body and participating in the formation of the law, the principle divergence of the interpretation of Kant presented here and of Rousseau's general will is the nature of the moral content of the law. For Rousseau, the basis for the general will, and therefore the criteria by which proposals for laws are judged, is the general interest of the body politic. The general interest precludes the endorsement of laws based merely upon private interests, and in this sense filters out and rejects considerations of self-interest. The good of the whole is, likewise, not the "sum of private wills," or in other words agreement only to laws wherein the private interests of all overlap and are therefore incorporated into law. It is, rather, the good of the whole, the interest of the body politic, apart from or against the interest of the self. Rousseau, *On the Social Contract*, 155. While the absence of subjective inclination from the law may be in line with the principles undergirding a Kantian account of the general will, Rousseau's general will collapses, on Kantian terms, into mere prudential concerns. The general will may be the collective interest of the whole, but the interests embodied in it need not be based on explicitly, indeed solely, moral principles. The general will as we employ it above, then, breaks from Rousseau here, as the general will, in Kantian terms, must be guided by the moral law and approximate the regulative demands of the ideal kingdom of ends.

determined injunction to obey, and therefore is not a genuine act of her rational will. Kant establishes consent so formulated as the primary moral norm within his account of the relationship between the state and the citizen. However, rather than respect the citizen as autonomous rational nature, the establishment of this norm merely normalizes the authority of the state and the subordination of the citizen to its authority. The duty to obey is primary; any act on the part of the citizen is unnecessary.

Second, if we critically interpret the relationship between the core concepts of Kant's account of the relationship between the moral law, the state, and the citizen without granting the moral norm of obedience as its first premise, we arrive at an altogether different account of this relationship. The citizen transitions from passive to active, from mere obedience to the law to participation in its creation. Privileging the moral norm to obey as central results in the disappearance of Kant's subject as an active rational will, and only in destabilizing this norm do we regain the activity of the subject, and with it a fundamentally different conceptual account of the relationship between morality, the authority of the state, and the citizen as political subject.

CHAPTER II

RAWLS: OVERLAPPING CONSENSUS, PUBLIC REASON, MARGINALIZATION

This chapter examines Rawls's political liberalism and the priority it gives to the norm of overlapping consensus. It begins with Rawls's account of the subject as defined by two capacities: a capacity for determining a conception of the good, and a capacity for determining a sense of justice. Of particular importance is that the capacity to develop a conception of the good, i.e., to determine a moral, religious, or philosophical conception of the good life results in the fact of value pluralism. Individuals hold differing conceptions of the good and, then, justice, in a political sense, ought to create social conditions of respect and toleration wherein the state and its coercive authority does not itself endorse any one conception of the good, which would result in oppressive conditions.

Rawls advocates for what he terms a political conception of justice. A political conception of justice is one wherein the institutions of the state are structured through principles able to be endorsed by all citizens, regardless of their conceptions of the good. This is essential because, Rawls argues, absent such general agreement upon the principles of justice social conditions become unstable, i.e., a mere *modus vivendi* agreement. In order to ensure well ordered social stability, the constitutive principles of justice ought to be determined through an overlapping consensus built through public reason. Overlapping consensus is, then, the norm that guarantees that society is stable and well ordered, as well as that the state does not itself compromise the liberty of its citizens by endorsing any given comprehensive doctrine of the good.

Upon establishing how Rawls's conception of the self results in his political conception of justice, we interrogate whether the position of centrality and primacy given to overlapping consensus compromises his account of justice. We do so through examination of his "difference principle." The difference principle is endorsable through public reason and able to be subject to an overlapping consensus, for Rawls, yet it is argued that the strictures of public reason and the demand the overlapping consensus it makes possible unduly restrict the ability of the least advantaged members of political society to make political claims. In so doing, the priority of the norm of overlapping consent results in the further marginalization of society's worst off, creating an internal tension within account of justice, on the basis of one of his own principles of justice.

The principle question guiding Rawls's "political liberalism" is how it is possible to establish a stable society of free and equal individuals and to establish "fair terms of cooperation" between persons so defined. Subjectivity for Rawls is principally a matter of autonomous self-authorization, meaning the ability to set and achieve one's ends based upon the system and hierarchy of values she endorses, determined free of coercion. Rawls explains that "persons" are characterized by "two moral powers": the capacity to develop a conception of "the good" and the capacity to determine a "sense of justice."⁵³ We now parse these two capacities respectively.

Regarding the moral capacity to develop a conception of the good, Rawls explains that, "persons...have at any given time a determinate conception of the good that they try to achieve. Such a conception...include[es] a conception of what is valuable in human life."⁵⁴ One's ability to develop a set of values and determine how they are prioritized into a worldview corresponds to what Rawls terms "rationality." The rational, for Rawls, "applies to a single, unified

⁵³ John Rawls, *Political Liberalism, Expanded Edition* (New York: Columbia University Press, 1993), 19.

⁵⁴ *Ibid.*

agent...with the powers of judgment and deliberation in seeking ends and interests particularly its [the agent's] own."⁵⁵ One establishes the content of her personhood through a process of individual deliberation over competing notions of value, as they are presented to her by, for example, religion, philosophy, morality, and so on. In reflecting upon and endorsing a system of values, persons define a broad definition of the good. Persons set their priorities, develop projects, and determine a sense of self through a self-defined worldview. To rationally endorse a conception of the good is to endorse, "a more or less determinate scheme of final ends, that is, ends we want to realize for their own sake, as well as attachments to other persons and loyalties to various groups and associations," which are not fixed in nature and continue to develop throughout the course of a life.⁵⁶ As rational, persons self-authorize the particular values and ends as a conception of the good life, the means through which she will pursue it, and, importantly, how she will do so within social interactions with others.

The capacity for a rational determination of a conception of the good results in what Rawls terms "comprehensive doctrines." The system of ends and values the rational individual determines is,

"comprehensive when it includes conceptions of what is of value in life, and ideals of personal character, as well as ideals of friendship and of familial association and relationships, and much else that is to inform our conduct, and in the limit to our life as a whole."⁵⁷

Comprehensive doctrines are the organizing paradigms mediating persons' interactions with their world. As comprehensive, they cover "all recognized values and virtues" within a clearly and

⁵⁵ Ibid., 50.

⁵⁶ Ibid., 19.

⁵⁷ Ibid., 13.

intricately articulated system of beliefs. When articulated in full, comprehensive doctrines also bring groups of individual persons together into “communities” of shared belief and ways of life.

For Rawls, the fact that individuals freely determine their conceptions of the good, organized as a comprehensive doctrine, and come together as such, results necessarily in the “fact of pluralism.” Society consists on a plurality of fundamentally divergent and competing, often contradictory, conceptions of the good life. Pluralism is, then, a fact of social life because of the rational capacities of persons. As Rawls puts it, value pluralism, “is the normal result of the exercise of human reason within the framework of free institutions[.]”⁵⁸ The fact of pluralism requires the admission that no one comprehensive doctrine is accepted universally by all persons within a given society. Given this condition, it is necessary that in establishing the fair terms of cooperation between persons, i.e., in determining the political organization of a society, pluralism be respected and endorsed in order to both respect the rational personhood of individuals and to ensure peaceable coexistence between divergent comprehensive doctrines.

Peaceable coexistence within a pluralist society corresponds to the second moral power of persons. Rawls terms this capacity as the capacity to be “reasonable.” To be reasonable is connected to persons’ ability to determine and endorse a sense of justice. Rawls says, “a sense of justice...expresses a willingness, if not a desire, to act in relation to others on terms that they also can publically endorse.”⁵⁹ Whereas the rational endorsement of a conception of the good pertains to the individual’s particular pursuit of her own advantage and good, the capacity to be reasonable is the moral capacity making social cooperation and coexistence possible. As Rawls defines it,

⁵⁸ Ibid., xvi.

⁵⁹ Ibid., 19.

“Persons are reasonable...when among equals, say, they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likely do so. Those norms they view as reasonable for everyone to accept and therefore as justifiable to them, and they are ready to discuss the fair terms that others propose.”⁶⁰

Reasonable persons are those who, despite their own rational commitment to a personal sense of the good, are willing to listen and respond to others endorsing differing systems of value. The capacity to be reasonable is the capacity to develop a conception of right – of justice – which is compatible with respectful and peaceable coexistence in pluralist society.

Mutually respectful social interaction between reasonable persons makes social reciprocity possible.⁶¹ Reasonable and rational persons are those who realize other rational persons are due reciprocal recognition of the value (if not correctness) of their comprehensive doctrines, i.e., of their ways of life. Social reciprocity or, we might say, intersubjectivity is possible through respect for what Rawls terms “the burdens of judgment.”⁶² Rawls explains the burdens of judgment in saying,

“The idea of reasonable disagreement involves an account of the sources, or causes, of disagreement between reasonable persons...These sources I refer to as the burdens of judgment. The account of these burdens must be such that it is

⁶⁰ Ibid., 59. Likewise, persons are “unreasonable,” “when they plan to engage in cooperative schemes but are unwilling to honor, or even propose, except as a necessary public pretense, any general principles or standards for specifying fair terms of cooperation. They are ready to violate such terms as suits their interests when circumstances allow.” Ibid., 50. Unreasonable persons, then, do not see social cooperation as an end in itself to be endorsed and cultivated. To be unreasonable is fundamentally to reject the notion that the fact of pluralism and public life requires mutually respectful interaction between persons, seeking instead what is most advantageous or serves their particular set of ends and values.

⁶¹ Rawls, *Political Liberalism*, 50.

⁶² The burdens of judgment make the explicit movement from personhood to the political possible. For the sake of the present discussion, we defer the discussion of this political turn momentarily.

fully compatible with, and so does not impugn, the reasonableness of those who disagree.”⁶³

If to be reasonable is to grant reciprocal respect to others’ values and ways of life, recognition of the burdens of judgment is what makes such “reasonable disagreement” between persons and groups of persons possible. Persons recognize that they share a common use of “human reason” via their moral powers and can, “draw inferences, weigh evidence, and balance competing considerations.”⁶⁴ In short, acknowledging the burdens of judgment means to be willing to, “assess the strength of peoples’ claims, not only against our claims, but against one another, or on our common practices and institutions[.]”⁶⁵ Rawls’s point is that in order to be “fully reasonable” amongst others persons are to be sincere deliberators and interlocutors regarding collective matters.

Respecting the burdens of judgment precludes the dogmatic assertion of one’s own rational conception of the good, meaning persons recognize there is no intrinsic superiority to their (reasonable) comprehensive doctrines in comparison with those of others.⁶⁶ The burdens of judgment are what ensure reciprocity and respect – social cooperation – within a pluralist society by setting the limitations for reasonable social interaction. This is to acknowledge the legitimacy of others’ comprehensive doctrines and the potential fallibility of one’s own and to refrain from infringing upon or coercing others’ rational endorsement of their value systems. To be reasonable in Rawls’s sense of the term is to create the possibility for cooperative intersubjective social interaction amongst persons holding fundamentally divergent worldviews within a

⁶³ Rawls, *Political Liberalism*, 55.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, 56.

⁶⁶ *Ibid.*, 50. This does not mean, however, that persons do not hold their comprehensive doctrines to be true or compelling. Indeed, they must in order to endorse them. The idea is that given the free use of reason in determining what we value, everyone will not arrive at the same conclusion regarding any given question or value. Therefore, insofar as those with divergent or conflicting values are willing to listen to and respond to each other through commonly acceptable premises, they endorse fair terms of cooperation.

pluralist society. It is, then, the condition for the “democratic idea of toleration” and peaceable social-political life.⁶⁷

As the two moral capacities constituting personhood, the rational (sense of the good) and the reasonable (conception of justice) are, “complimentary ideas...They work in tandem to specify the idea of fair terms of cooperation.”⁶⁸ When realized together, these two capacities constitute persons who both actualize a self-authorized conception of the good life and do so in such a manner that respects, even endorses, others’ ability to do the same. The Rawlsian person, then, is one whose comprehensive doctrine of the good is compatible with the reasonable cooperation of rational persons seeking divergent ends within a shared social space. Since the burdens of judgment show us that reasonable persons will not all endorse one comprehensive doctrine, persons who are both reasonable and rational understand that, “the burdens of judgment set limits on what can be reasonably justified to others, and so they endorse some form of liberty of conscience and freedom of thought.”⁶⁹ Reasonable and rational persons, then, endorse only “reasonable comprehensive doctrines,” or, comprehensive doctrines of the good which are compatible with the reciprocal recognition that it is reasonable for others to hold views differing from one’s own.⁷⁰

Rawlsian persons are “free and equal” individuals. Persons are free because in their capacity to self-authorize a conception of the good and pursue it through means they choose, they are “autonomous” individuals. On this point Rawls says autonomy, “rests on persons’

⁶⁷ Rawls, *Political Liberalism*, 58.

⁶⁸ *Ibid.*, 52.

⁶⁹ *Ibid.*, 60.

⁷⁰ Unreasonable comprehensive doctrines are, then, those whose values are not consistent with the plurality of values within a common society. Failing to acknowledge the burdens of judgment and the reciprocity they demand, those holding unreasonable comprehensive doctrines are those whose values internally intend to interfere in others’ forms of life, insofar as they differ from the former, or to insist upon the necessity of their own set of values. One example is, perhaps, fundamentalist forms of religious doctrines demanding that others adhere to their doctrinal values and ways of life. Unreasonable comprehensive doctrines, then, reject the fact of reasonable pluralism and, therefore, the notion that others are also self-authorizing sources values which they are free to pursue.

intellectual and moral powers,” which we outlined above, and, “[autonomy] is shown in their exercising their capacity to form, to revise, and to pursue a conception of the good...[and] also in their capacity to enter into agreement with others.”⁷¹

Persons are equal in, “having these powers [the above mentioned] to the requisite minimum degree to be fully cooperating members of society[.]”⁷² Exercising the capacities to devise a comprehensive doctrine of the good and to do so reasonably by acknowledging the burdens of judgment and endorsing fair terms of cooperation expresses that persons share, to an equal capacity, the constitutive characteristics of personhood. Furthermore, in interacting reasonably with others who are themselves reasonable, persons are reciprocally respected in their social interactions and dealings. The person is, therefore, a cooperative member of a society of persons, each expressing respect for one another through abiding by the burdens of judgment created by a plurality of values and by authorizing and pursuing personal ends. With these constitutive elements of personhood and interpersonal relations articulated, we can transition from the foundations of subjectivity to the political, since persons are those who can be a citizen. To be a citizen means to be a fully cooperating member of society within a democratic regime.⁷³

Rawls explains that free and equal citizens, “have equal share in the corporate political and coercive [political] power of society[.]”⁷⁴ Given the fact of conflicting and irreconcilable comprehensive doctrines held by citizens which are nonetheless reasonable. The political must be structured in a manner which does not execute the coercive power of the state to the advantage of some at the expense of others’ freedom and equality. This state requires that the public political conception of justice (right) and the institutions founded upon it are structured

⁷¹ Rawls, *Political Liberalism*, 72.

⁷² *Ibid.*, 19.

⁷³ *Ibid.*, 18.

⁷⁴ *Ibid.*, 61.

such that “intractable conflicts” between citizens with conflicting conceptions of the good are “unlikely to arise.”⁷⁵

In order to accomplish this, Rawls proposes what he terms a “political conception” of justice (and hence “political” liberalism). A political conception of justice stands in opposition to a “comprehensive conception” of justice. Comprehensive conceptions of justice adhere to and endorse a particular comprehensive doctrine and, in so doing, claim authority to decisively decide on matters of the good. If a conception of justice is comprehensive, it is, for Rawls, problematically general in that it universally ascribes a given set of values (which properly belong to the sphere of the rational and the individual) to the whole of society, despite the fact of value pluralism. The state endorses a given comprehensive doctrine at the expense of all those citizens who do not adhere to that specific doctrine.

What is at stake for Rawls here is what he terms “the fact of oppression.”⁷⁶ If the state endorses a substantive conception of the good, the result is that those who set and endorse the comprehensive doctrine imported into the political realm wield the coercive power of the state toward their own ends and values. Given the burdens of judgment and the requirements of reasonableness for social cooperation, it is principally unreasonable for one person or group of persons to utilize political power to endorse one view over others, in effect, Rawls argues, “repressing” others’ reasonable comprehensive doctrines;⁷⁷ reasonable persons, then, reject the employment of state coercive power to endorse any one conception of the good.

It is for this reason that Rawls calls for a “political conception” of justice. Political conceptions of justice characterize the fair terms of cooperation necessary for a pluralist

⁷⁵ Ibid., 156.

⁷⁶ Ibid., 37.

⁷⁷ Ibid., 61.

society.⁷⁸ A political conception of justice is one taking reasonable value pluralism into account and, subsequently, seeks to “gain the support of [all] reasonable comprehensive doctrines.”⁷⁹ Rawls characterizes a political conception of justice as one which is a “freestanding view.”⁸⁰ A view is freestanding if it is posited without specific reference to and is not derivative of any particular comprehensive doctrine. This means that specific conceptions of the good are not the “subject” of a political conception of justice. Political conceptions can be articulated and defended by the logic of their own (political) principles and can, therefore, be endorsed by a plurality of reasonable comprehensive doctrines.⁸¹

Furthermore, political conceptions of justice have a specific content or “subject.” Rawls explains that the parameters of a such a conception of justice are limited to, “a very specific kind of subject, namely, for political, social, and economic institutions. In particular, it applies to what I shall call the ‘basic structure’ of society.”⁸² The basic structure of society consists of the social, political, and economic institutions of society and the way in which they work together as a cohesive system able to endure from generation to generation. This means that the contents of comprehensive doctrines are not the appropriate content for a political conception of justice; considerations having to do with moral, philosophical, or religious claims, “are not, in general, to be introduced onto political discussion of...the basic structure of justice.”⁸³ Put otherwise, a political conception of justice bifurcates a person’s considerations into distinct public and private spheres. Persons’ comprehensive conceptions of the good are to be private; considerations of the

⁷⁸ Ibid., 16.

⁷⁹ Ibid., 37. We will further discuss this momentarily with regard to “overlapping consensus.”

⁸⁰ Rawls, *Political Liberalism*, 12.

⁸¹ Ibid.

⁸² Ibid., 11.

⁸³ Ibid., 15-6.

basic institutions of society and how they ought to function in order to produce a political system are explicitly public political considerations.

Rawls sees that in limiting the boundaries of our conceptions of justice to the strictly common or general considerations of basic justice a proper conception of justice will not violate the limits of what reasonable persons can be asked to endorse. In other words, a political conception of justice does not posit the appropriateness of given values such that those persons holding comprehensive doctrines fundamentally opposed to said values would be forced to endorse them in order to consent to being governed. A political conception of justice is, consequently, the basis for an enduring political system able to avoid intractable conflicts between differing value systems. It is the premise for what Rawls terms a “well ordered society.”

A well ordered society is one wherein all citizens accept the same principles of justice. Moreover, it is a society in which the basic structure is publically believed by all citizens to effectively embody these principles.⁸⁴ Since Rawls is concerned with the possibility of a pluralist society able to avoid conflict, that a society is well ordered, means citizens view themselves as represented by the political conception of justice and are willing to comply with the basic institutions of society.⁸⁵ Conceptions of justice and modes of organizing the basic institutions of society unable to garner the universal compliance and consent of its citizens are, Rawls claims, foundationally unstable.⁸⁶

⁸⁴ Ibid., 35.

⁸⁵ Ibid.

⁸⁶ In order to show the danger of unstable societies/states Rawls routinely appeals to the European religious wars. Unstable states cannot maintain conditions of toleration and peaceable coexistence and devolve into zones of conflict, if not outright violence. Prevention of such conflict, as well as the possibility for a trans-generationally enduring state calls for a political conception of justice because such a conception of justice is able to ensure stability and well-orderedness. See, *Political Liberalism*, 148.

To ensure that society remains well ordered, a political conception of justice is built upon an “overlapping consensus.” As mentioned above, the aim of a political conception of justice is to gain the general support of the diversity of comprehensive doctrines within society, each deeming that conception of justice endorsable from within its own specific conception of the good; as Rawls puts it,

“[C]itizens themselves, within the exercise of their liberty of thought and conscience, and looking to their comprehensive doctrines, view the political conception as...congruent with, or at least not in conflict with, their other values.”⁸⁷

Overlapping consensus is a consensus amongst reasonable comprehensive doctrines regarding the conception of justice organizing the basic institutions of society. Consensus as such is the condition for social unity and it ensures that the conception of justice is, “affirmed by society’s politically active citizens and the requirements of justice are not too much in conflict with citizens’ essential interests[.]”⁸⁸

The possibility for an overlapping consensus requires that matters of common public concern, i.e., issues regarding the basic institutional justice of society, are addressed through an explicitly political “public reason.” As we noted above, a political conception of justice divides the public and the political from private matters of the good. Doing so promotes the well-orderedness of society by, “remov[ing] from the political agenda the most divisive issues, serious contention about which must undermine the basis of social cooperation.”⁸⁹ Public reason is the tool through which the political agenda is reigned in to admit only specifically political matters. Rawls defines public reason as,

⁸⁷ Rawls, *Political Liberalism*, 11.

⁸⁸ *Ibid.*, 134.

⁸⁹ *Ibid.*, 157.

“characteristic of a democratic people: it is the reason of its citizens, of those sharing the status of equal citizenship. The subject of their reason is the good of the public: what the political conception of justice requires of society’s basic structure of institutions, and of the purposes and ends they are to serve.”⁹⁰

As the reason of “equal” citizens, the content of public reason exhibits the reciprocity characteristic of reasonable personhood by ensuring that any decision on matters of justice admits only reasons all could, reasonably, accept. In other words, it precludes reasons derived from individual conceptions of the good in establishing and ordering the basic institutional structure of society.

Public reason is limited to the “constitutional essentials” of the state and to the basic structure of society. Constitutional essentials are those determinations, “a) which specify the general structure of government and the political process...[and] b) which specify the equal basic rights and liberties of citizens.”⁹¹ Rawls envisions public reason as the medium through which free and equal citizens determine what basic rights all are afforded and the form of legislative, executive, and juridical institutions protecting them by speaking to each other on terms through which anyone could (at least conceivably) endorse from within their own set of values.

A public reason limited to the constitutional essentials and basic institutions of society creates a condition of social stability and institutionally embedded toleration for divergent conceptions of the good. For this reason, an overlapping consensus of reasonable comprehensive doctrines is able to ensure the stability of a political society. Rawls juxtaposes this stability to a *modus vivendi* compromise between parties (potentially) in conflict. A *modus vivendi* agreement is one wherein parties agree to cooperate on the condition that doing so is mutually advantageous

⁹⁰ Ibid., 213.

⁹¹ Ibid., 228.

to all involved parties.⁹² The problem with a conception of justice built upon a *modus vivendi* is that it implies that at the point where it is most advantageous for one party to break with the agreement, that party will do so. This precludes the possibility for an enduring state of social cooperation. Building a conception of justice upon an overlapping consensus rather than a *modus vivendi* means that, “those who affirm the various [comprehensive] views supporting the political conception will not withdraw their support of it should the relative strength of their view in society increase and eventually become dominant.”⁹³ The stability of an overlapping consensus is what ensures that conditions of mutual respect and toleration between reasonable persons endures because absent general endorsement of the political conception, there is no compelling reason why a dominant group ought not revise the principles of basic justice in its own favor. Determining the constitutional essentials and basic institutional structure of society through a non-partisan public reason ensures state neutrality in matters of the good and, therefore, prevents violation of the freedom and equality of any segment of the citizenry at the hands of another or of the state.

We can summarize the movement from free and equal personhood to a stable and limited political conception of justice by reference to what Rawls terms the “liberal [democratic] principle of legitimacy.” He says,

“[O]ur exercise of political power is proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.”⁹⁴

⁹² Ibid., 147.

⁹³ Ibid., 148.

⁹⁴ Ibid., 137.

Formulating the subject/person as a self-authorizing free individual demands that the subject is, in turn, treated as an equal member of society, a free individual among free individuals.

Maintaining the conditions for equality demands reciprocal willingness to cooperate socially with other persons in manners which do not infringe upon their status as free and equal. This demands a conception of the political premised on stably assuring that no political arrangement reaches into matters of the good, meaning no free and equal member of society is coercively demanded to endorse a moral, philosophical, or religious doctrine to which she does not adhere. The possibility for stability demands that the political be cordoned off from one's constitutive values, themselves withdrawn into an apolitical private sphere. Rawls's subject, free and equal by virtue of intrinsic capacities, demands a stable state constructed upon consensus over a minimal realm of the political able to avoid dissensus over the form of and justification for the principles of justice guiding state power and the political community.

In sum, in order to achieve a stable society it is necessary to preclude the possibility that the coercive power of the state is unjustifiable to some of its citizens. Such power would be unjustifiable when the foundational conception of justice organizing the state and its institutions is premised upon conceptions of the good not endorsed by some citizens. To achieve stability, then, a political conception of justice is not an endorsement of a given conception of the good or set of such conceptions, but a formulation of justice able to be endorsed from any and all moral, religious, and philosophical standpoints. Failure to ensure overlapping consensus in the conception of justice would result in conditions wherein the freedom and equality of citizens is compromised, since they would be subject to the coercive force of the state, absent their endorsement. So, while political conceptions of justice are not premised upon controversial conceptions of the good, i.e., moral (or religious, or philosophical) perspectives, there is a moral

imperative to derive the principles of justice only from overlapping consensus, lest freedom and equality be unjustly infringed upon. Overlapping consensus achieved through public reason is, then, a moral norm made necessary in order to achieve the condition of social stability, and this norm sets the acceptable parameters for justice or, in other words, what the state's institutions can demand of and guarantee to its citizens.

However, we ought to question whether, in opposition to its intended purpose, placing the central onus of political liberalism on the norm of overlapping consensus achieved through public reason actually produces inegalitarian results. We will frame this question by examining the consequences of public reason and overlapping consensus for Rawls's conception of justice as fairness, specifically in its second principle of justice, i.e., the difference principle. The contention of this rebuttal is that the priority of the moral imperative for overlapping consensus in Rawls's political liberalism places restrictions on the worst off in society such that their reason giving is limited in such a way that the justification for the difference principle is compromised on epistemic grounds, and, from this, that fails to require hearing the worst off in society on their own terms, as political speakers and agents. Prioritizing the norm of overlapping consensus results in further occlusion of the worst off in society.

Regarding the potential epistemic gap resultant from the strictures of public reason, we must remember that public reason admits only those premises able to be mutually recognized as acceptable from the sum total of reasonable perspectives. The criterion for permissible speech within political liberalism is the, at least potentially, universal acceptability of the premises of political discourse. Basic justice ought only to be determined by those premises through which any reasonable person could accept and which are, then, universally intelligible. While in abstraction the Rawlsian conception of reasonableness appears as an egalitarian principle

ensuring the legitimation of all political voices, we ought to wonder about those subjects whose perspectives can only be articulated in terms of their idiosyncratic subject positions, i.e., on premises which experientially cannot be shared by all members of the state. The concern here is that public reason precludes the admissibility of reasoning about justice that cannot be universally acceptable from all subject positions and which derives from any comprehensive doctrine regarding the good and a conception of the good life. Rawls, in defining public reason as such, assures that idiosyncratic, personal reasoning is exempt from the public discourse over the political conception of justice.

What we must question is whether the worst off in society⁹⁵, the oppressed, the marginalized, the occluded subjects of the state ought to be expressing themselves and their particular – essentially non-general – perspective within deliberations over the basic institutions of justice. Consider Rawls’s “difference principle.” The difference principle states that any inequality resultant from and permissible within the basic structure of society ought to be justifiable to, and to the benefit of, the worst off members of society. Social and economic inequalities are permissible insofar as the mechanisms responsible for the inequalities are actually to the advantage of the least advantaged, and so long as those inequalities are consistent with all citizens sharing in equal liberty and fairly determined equality of opportunity.⁹⁶ Rawls maintains that the difference principle is justifiable within the confines of public reason, since it falls beneath the purview of basic justice.⁹⁷ The difference principle, and with it, then the

⁹⁵ When Rawls discusses “the worst off in society,” he does so with reference to “social,” and especially “economic” inequalities. The worst off in society are those who experience the greatest degree of deprivation.

⁹⁶ Rawls, *Political Liberalism*, 282. Since this definition of the difference principle remains consistent with Rawls’s earlier view of justice as fairness, see also John Rawls, *A Theory of Justice, Revised Edition* (Cambridge: Harvard University Press, 1999), 53.

⁹⁷ Rawls, *Political Liberalism*, 229.

justification for social and economic inequalities, is, Rawls contends, able to be agreed upon through an overlapping consensus.

Where we ought to problematize the difference principle, public reason and, with it, the idea of a political conception of justice is from the position of the society's worst off and least advantaged. Public reason and overlapping consensus appear untenable is at that point where the oppressed cannot express their particular claims to justice on their idiosyncratic terms. By this we mean that privileged subjects reflecting upon Rawls's difference principle and the political conception of justice generally do not have experiential or epistemic access to the position of social marginalization, i.e., those who do not occupy the position of the least advantage in society likely have not, and certainly have not necessarily, experienced or lived this social position⁹⁸. Were the worst off to express demands of justice based upon their particular social situatedness and upon the conditions of their social experience we ought to wonder whether the premises through which they make demands upon justice and through which they articulate these

⁹⁸ Lynn M. Sanders presents a similar critique of standards of reasonability, with her focus on deliberative democracy. This criticism is pertinent because both deliberation and Rawls's conception of public reason share the requirement that political proposals aim toward what is shared, rather than toward the expression of difference, and emphasize impartiality in the practice of reasoning. Yet, Sanders claims, problems arise when parties to deliberation, or, for our purposes, those considering the principles of justice and the difference principle from within the confines of public reason, epistemologically "see different worlds." Under such circumstances, the strictures placed upon speech, i.e., how one can make political claims or proposals, actually preclude the possibility for each party clearly and explicitly explaining or arguing from her particular experience, resulting in both silencing and alienation between persons. Lynn M. Sanders, "Against Deliberation," *Political Theory* vol. 25, no. 3 (1997): 371. For our purposes, especially important it that the least advantaged in society could argue for principles of justice from their particular social position, should that social position influence their conception of the good life and should that conception of the good life influence their reasons for, for example, arguing that the difference principle is unjustly formulated. To alleviate this issue, Sanders proposes that "testimony," if not replace deliberative constraints on reasoning, be incorporated as a viable and valuable form of political speech. Testimony is a form of speech allowing one to speak from her experience without the requirement that political proposals necessarily aim toward what is common, but can be formed from what is non-general, i.e., one's particular experience and how it may illuminate relevant considerations of justice. Sanders, "Against Deliberation," 370. Similarly, Iris Marion Young proposes "narrative" as a medium through which those who lack common premises can, "speak across our differences to promote understanding." Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000), 72. Both of these concepts helpfully illuminate how the least advantaged in society could convey their experience to more privileged members of society who do not share in their experience, and how the insights gain from such claims could affect the determination of principles of justice, i.e., what the worst off would themselves say about the difference principle. They avoid the problematic conclusion that the least advantaged in society must shape their accounts of what is or is not acceptable from premises or within terms that all in society already understand or could endorse from within their own conceptions of the good.

demands could a) universally avoid appeals to, especially moral, considerations not shared by all comprehensive doctrines and b) avoid particularistic and, therefore, non-general expressions of their social position. While it is possible that the least advantaged members of society would choose to express what forms of inequality they deem acceptable or unacceptable in terms avoiding comprehensive conceptions of the good, such as fairness (to utilize Rawls's example), this does not alleviate this concern, since the primary concern focuses on why these members of society must be limited to such impartial and depersonalized terms.

At stake for the difference principle is both the contention that the reasons, claims, and justifications the least advantaged may give regarding what forms of equality are permissible and to their advantage could be intelligible to all members of society, from within their distinct subjective and epistemic positions, and the contention that these claims must not derive from conceptions of the good, be they moral, philosophical, or religious. To the first concern, Rawls requires that the claims of the least advantaged be presented such that any citizen could understand and endorse them. Yet, what marks the least advantaged as the least advantaged is their differing social positions and, then, their differing experience of the social-political world resultant of the agreed upon principles of justice. In requiring general acceptability of one's reasons, in this case regarding what inequalities are allowable from within the difference principle and to what extent they are justifiable, Rawls asks that those most marginalized by the institutions of political society tailor their accounts of their experiences to those more privileged. In effect, the least advantaged would need to explain why any given inequality unjustly disadvantages them or allows others to prosper at their expense from within premises already intelligible and accessible to the more privileged. The worst off, then, must exclude those elements of their experience that are not generally intelligible to the more advantaged, effectively

requiring them to exclude from their accounts those considerations the more advantaged have not experienced and which may appear unintelligible from within their social positions. Building upon this is the second concern noted above: whether the least advantaged ought to be required to account for why a form of inequality is not to their advantage by excluding considerations of moral values. If unacceptable inequalities are to be determined as those inequalities which fail to advantage the least advantaged, and if which inequalities fall within this set is to be determined from consideration of the least advantaged position of society, excluding specifically moral or philosophical considerations of the good results in the possible exclusion of reasons for why one experiences a form of inequality as harmful and disadvantageous. Giving an account of how and why one is social, economically, or politically marginalized by a form of inequality may well rely precisely on framing the experience of such a subject position within appeals to the good life, i.e., accounting for how and why one perceives she is harmed or disadvantaged and how she would choose, on her own terms, to provide an account of her experience to others who do not share her experiences or social position. If the above are true, then what overlapping consensus risks is invalidating the experiences of the least advantaged in society by requiring that they account for their experience by excluding the elements of that experience which are not generally intelligible or which concern the failure to achieve the good life from consideration of the basic principles of justice.

The key point here is that public reason in Rawls's sense is restrictive to the point that even those who his egalitarian principles of justice are meant to protect cannot articulate their particular experience as marginalized without potentially infringing upon the requirements of public reason. If this is the case, political conceptions of justice, insofar as they aim to abstract from particularity or appeal to idiosyncratic accounts of value, run the risk of silencing the voices

of the worst off within society. If this silencing results from the limitations of public reasons and the principles of a political conception of justice, the concept of a political conception of justice appears tenuous in that it cannot represent those who suffer most within a politically liberal society, nor can it make for the narratives of state subjects. These concerns are the result of Rawls's formulation of political liberalism, wherein the norm of overlapping consensus takes a position of primacy. In attempting to formulate an egalitarian conception of governance capable of respecting free and equal individuals capable of differing conceptions of the good and in aiming for the subsequently well ordered society, Rawls privileges overlapping consensus and public reason as norms, yet these norms themselves, when pressed, risk inegalitarian outcomes and the exclusion of the voices of members of that society.

PART II

ACTION

CHAPTER III

MARX: CRITIQUE AND TRANSFORMATIVE ACTION

This chapter begins with Marx's account of the subject, from within his dialectical materialism. Dialectical materialism tells us that the subject is, from the start, constituted in the image of the existing material conditions of society. From this, Marx claims that both ethics and politics, insofar as they are positively articulated, are mere ideological reflexes of a society premised upon capitalist exchange. The contention of this chapter is, however, that this is not the limit of Marx's account of either ethics or politics, but rather that Marx has an explicitly ethical critique of capitalist exchange society and that this critique is meant to correlate to direct action – politics – with the aim of overturning the existing material conditions of society.

Through a reading of a passage of Marx's *Grundrisse*, we see Marx mining what he terms the “social” and the “formal” elements of the exchange relationship to show that the moral foundations of capitalist society, found in natural rights, are emblematic of the atomic, antagonistic, and self-interested subject of capitalist society. Freedom and equality, as they correlate to these natural rights, are concepts – indeed, social practices – directly corresponding to antagonistic and instrumental forms of relations between subjects. If this is the case, they are also directly related to Marx's concept of alienation and what we term dehumanization.

This interrogation of the conceptual foundations of capitalist society is not, however, merely negative in its import. Rather, we turn to Marx's concept of negative critique to show that as we uncover the moment of dehumanization in relations between subjects, Marx directs us to a possible, if opaquely defined, alternative. Critique, as a practice, is the locus for ethics;⁹⁹ it

⁹⁹ This claim, then, counters those who claim that, on the basis of his methodology, there is no ethics to be found in Marx. Such a claim may be made in at least two ways. First, one may claim that as Marx critiques the ethics (and

instructs us that dehumanization ought not exist, that our social practices ought to be reimagined and recreated. Critique is an ethical practice correlating with collective transformative praxis, i.e., politics. Marx does, then, provide us an, albeit characteristically negative, account of ethics and politics, as well as their relationship to each other. Ethical critique spawns critical action, and in turn the transformation of the existing material conditions of society.

It is in this chain from critique to transformation, ethics to politics, where we encounter an internal conflict for Marx's account of the relationship between ethics and politics, however. The relationship between ethics and politics as it is here interpreted establishes ethics, critical interrogation of the existing world, as primary and action as its derivative. However, returning to the premises of dialectical materialism, action, the concrete transformation of economic

politics) of the present as ideology, he must renounce any claim to an ethics since such claims would themselves be ideologically constituted and, therefore, expressions of the prevailing material conditions and the hierarchical social relations endemic to them. Ethics cannot address the contradictions and antagonisms upon which capitalist society is premised, therefore Marx has no use for an ethics. Such a claim is made by Lewis S. Feuer, who states, "The obsolescence of ethical ideology is a corollary of historical materialism... Ethical laws come not being as attempts to solve social antagonisms, not by removing their basic causes, but through moral coercion." Lewis S. Feuer, "Ethical Theories and Historical Materialism," *Science and Society* vol. 6, no. 3 (1942): 269. The second form such a claim can take focuses on Marx's contention that dialectical materialism is a form of "science." If this is so, then, "Marx's revolution in philosophy explicitly renounced the normative tradition of philosophical ethics while affirming the heritage of positive science." Donald Clark Hodges, "Historical Materialism in Ethics," *Philosophy and Phenomenological Research* vol. 23, no. 1 (1962): 6. George G. Brenkert dispels both versions of these claims by noting a) the claim that Marx's commitment to his methodology as a science places him within the tradition of the positive sciences, and therefore excludes the ethical, ignores the fact that Marx borrows his conception of science from Hegel, making it unlikely that Marx's invocation of science is meant to place himself within the positive sciences, b) such claims ignore that Marx does not assume the role of a neutral observer in his writings, but, rather, those writings are characterized by "normative and partisan" claims which Marx clearly believes others ought to also endorse, and finally c) if it were true that Marx had no ethical commitments, this would render Marx's commitment to the idea that communism (or, post-capitalist society) represents a qualitative improvement to the conditions under which humans beings live incoherent. George G. Brenkert, *Marx's Ethics of Freedom* (London: Routledge & Kegan Paul, 1983), 4. The basic claim of this chapter is that in the practice of negative critique we can discern, opaquely, both a normative indictment of the present material conditions and a demand for the transformation of dehumanizing social conditions. In this sense, the argument presented here is, with conditions, aligned with Charles Taylor's claim that, "Marxism has a definite standard of value, of higher and lower... The basis of this standard of value lies in the teleological notion of human nature: a stage or form of society is higher than another because it involves a greater realization of human goals." Charles Taylor, "Marxism and Empiricism," in *British Analytical Philosophy*, eds. Bernard Williams and Alan Montefiore (London: Routledge & Kegan Paul, 1966), 244. However, while we agree that Marx does offer a conception of human nature and that the practice of critique locates dehumanization where this nature is stunted or perverted by the existing material conditions, the present argument hesitates at too strongly emphasizing the teleological element of this claim. This is to say that Marx claims that communism is not a "stable state" or a final end toward which human activity progressively moves, as though the achievement of communism were the end of the progressive movement of history. Rather, as we see below, communism is, if anything, a continual transformation toward more humane forms of social life.

structures, and therefore politics must take the position of primacy. This is so because, remaining consistent with the relationship Marx establishes between praxis and ideology, action – social transformation – is the necessary condition for the possibility of social relations other than their present forms. If this is the case, the priority placed on action by dialectical materialism means that the chain from critique to action, ethics to politics, is stunted. The form of cooperative relationality necessary for social transformation already requires that such transformation has taken place for its possibility. The logic of transformative action is circular in that revolutionary practice constitutes its own necessary condition for possibility, and the logic of the subject itself constitutes the barrier to the formation of collective political aims and agency, the spark of praxis called for by critique as an ethical practice.

Identifying ethical and political obligations in Marx requires parsing his criticism of the existing ethical-political order for what lies inexplicitly beneath it. Positive ethical and political theorizing necessarily replicates the historical-material conditions under which such theory originates. As Marx puts it,

“The mode of production of material life conditions the general process of social, political, and intellectual life. It is not the consciousness of men that determines their existence, but their social existence that determines their consciousness.”¹⁰⁰

Theory mirrors the existing material conditions of society, by which we mean the concrete practices and processes through which human beings provide for their subsistence and the modes of distribution and economic interrelations between persons at a given time. These conditions constitute the “economic structure” of society. Crucial to the notion that human consciousness mirrors the modes through which human beings live is that Marx notes that the “intellect” itself

¹⁰⁰ Karl Marx, “Preface” to *A Contribution to the Critique of Political Economy*, in *Early Writings*, trans. Rodney Livingstone (New York: Penguin Books, 1992), 425.

is fashioned in the image of the economic structure of society. His point is that human consciousness is organized by the life process; conscious human thought is always a rationalization for the prevailing patterns of human action and interaction. Consequently, the epistemic resources of the subject are limited to the logic of the material world in which she lives. It is impossible to positively think outside of our material-economic-historical context and its discursive rationalization.

As such, ethical and political matters are the direct result of the prevailing modes of economic life. The ethical and political structure of society will always produce the necessary rationalizations for the current conditions under which human beings live and provide corresponding systems of law, politics, morality, and theories of subjectivity making possible the flourishing and proliferation of those conditions. As agents and as rational consciousness, humans are defined “as they really are,” not as they “may appear in their own or other people’s minds;” they are “under definitive material limits, presuppositions and conditions independent of their will.”¹⁰¹ This is significant for problematizing the ethical and the political because to so theorize necessarily runs up against the cognitive and conceptual limits posed by the social structure. That this is “independent of [people’s] wills” indicates that the effects of what Marx terms “ideological reflexes”¹⁰² are not transparent to the subject enveloped by and constituted by them. In constructing political systems and states and in codifying norms for human interaction we will always end up at the point at which we began: the products of such theorizing are the ideological “superstructure”¹⁰³ of society – the direct correlates to the ways in which people already exist. What we take to be the act of constructive theorizing is in reality the telling of a

¹⁰¹ Karl Marx, *The German Ideology*, in *The Portable Marx*, trans. Eugene Kamenka (New York: Penguin Books, 1983), 169.

¹⁰² Ibid.

¹⁰³ Karl Marx, “Preface”, 425.

story already written and inscribed in the concrete lives of human beings. It is the ideological reproduction of the material conditions of society.

Positive discussion of ethical and political obligations, therefore, results in a normative and political justification for how we already live, for our everyday practices. In order, therefore, to speak of ethics and of politics otherwise than through the existing presuppositions of, specifically capitalist, society we must do so negatively. Inquiry into the nature of ethical obligations requires, then, a critical analysis of the prevailing ethical concepts as well as the forms which “cooperation of...individuals” presently takes.¹⁰⁴ Marx’s point of departure for, however opaquely, gesturing towards a non-ideological ethics begins with “ruthless criticism of the existing order,” that is, of the structural-material realities undergirding the present form of human interaction in capitalist society.¹⁰⁵ Uncovering the presuppositions of existing ethical norms and their normative foundations points negatively toward the possibility for a transformed form of human relations and for imagining new possibilities for what motivates human interaction and toward what ends human relations ought to be guided.

In order to think the possibility of a Marxian ethics, an ethics motivating action toward the transformation of the material world, we must follow Marx through the critique of the existing forms of human interaction. This means to engage his specific analyses of capitalist production and exchange and, subsequently, to flesh out the consequences of this analysis for the (specifically classical) liberal moral doctrine Marx problematizes. Since the norms of economic life are the premises upon which any ethics resides, we begin with Marx’s critique of the “formal” and “social” elements of the exchange relationship – the relationship through which, he contends, individuals interact under capitalism. Parsing this analysis points to correlations to

¹⁰⁴ Marx, *The German Ideology*, 173.

¹⁰⁵ Karl Marx, “Letters from the Franco-German Yearbooks,” in *Early Writings*, trans. Rodney Livingstone (New York: Penguin Books, 1992), 207.

Marx's concept of alienation. These connections will offer critical insights into the moral discourse of natural rights as the primary moral concepts of capitalist society and, later, point us toward the potential for an ethical reading of Marx's concept of critique.

Each of the elements of the exchange relationship corresponds to a foundational liberal moral principle: equality and freedom. We will deal with each in turn. Critical reflection into the nature of equality begins with what Marx terms the "formal" or "economic" explanation of the exchange relationship. The economic side of the exchange relationship concerns the exchange of commodities, which, though different, are identified as equivalent through their attendant "exchange values." Exchange value represents the amount of labor time necessary to produce the specific commodity. Commodities, insofar as they are considered through the lens of exchange value, are concrete objects representing human labor, effort, and time in the abstract.¹⁰⁶ The amount of labor contained in an object sets its market price. Commodities with equal exchange value are thought to be of equivalent value. Exchange value is, then, value as quantitative measure.

When two individuals meet in a relationship of exchange, each possesses a commodity bearing a determinate amount of abstract labor. Exchange takes place when the involved parties agree to each surrender her commodity for another of equivalent exchange value. The formal/economic exchange relationship is one consisting of the transaction of quantitatively equivalent objects, nothing more. It is this fact that points Marx toward an examination of the parties to the exchange and to the nature of their interpersonal relation. He explains that if the object is viewed solely as exchange value, "then the individuals, the subjects between whom this

¹⁰⁶ Karl Marx, *Capital, Volume One*, ed. Friedrich Engels, trans. Samuel Moor and Edward Long (Mineola, NY: Dover Publications, 2011), 50.

process goes on, are simply and only conceived of as exchangers.”¹⁰⁷ At the formal level, the parties to the exchange – persons in direct relation to each other – themselves become interchangeable; in turn, they understand and interact with each other as interchangeable “exchangers.” Marx continues, “As far as the formal character is concerned,” as far as we consider exchange from an economic perspective, “there is absolutely no distinction between them [the exchangers], and this is...the aspect in which they stand towards one another in the exchange relation[.]”¹⁰⁸ Neither party to the exchange registers or is cognizant of any of the particularities of the other; they are identical in that each simply represents an abstraction: “exchanger.”

Of note here is that particular individuals, persons, are hypostatized into fungible objects. Parties to the exchange relationship meet not as persons, but as interchangeable functionaries within a mechanistic process. Their investment in each other, the very tenor of the interpersonal relation, consists only in identifying the other as the proprietor of an abstract quantitative value. Outside of the numerical equivalence of their commodities, the qualities of the exchangers insofar as they are persons are irrelevant. As absolutely indistinct the exchangers, in their abstraction, they are recognized only as the value of the commodities they possess. A relationship to person A or to person B is of no difference; the two are identical.¹⁰⁹ Persons become mere exchangers and as exchangers they are devoid of qualitative personhood and, from this, qualitative value. In each other’s eyes, persons become the mere matter of quantification. They are themselves represented as exchange value.

As representations of a quantitative exchange value, and because their commodities (and, derivatively, themselves) are of equal value, Marx explains that exchange in its formal sense is a

¹⁰⁷ Karl Marx, *Grundrisse*, trans. Martin Nicolaus (New York: Penguin Books, 1993), 241.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

relationship of “equality.”¹¹⁰ Each stands before the other as her equal, but this equality is premised solely on abstract numerical equivalence. As each encounters the other as wholly indistinct and devoid of qualitative features, as identical to any other possible party to the exchange, Marx explains, “The equivalents are the objectification of one subject for another; i.e., they...assert themselves in the act of exchange as equally worthy, and at the same time, as mutually indifferent.”¹¹¹ Our point is that, for Marx, the foundation upon which formal equality rests is the abstraction of the equals into interchangeable exchangers. Since they are themselves exchangeable and consequently indifferent to the personhood of the other, the formal concept of equality is predicated on the subject’s thorough indifference to the other with whom she exchanges commodities. Indifferent to the personhood of the other party and viewing her only as the bearer of an equivalent commodity, persons relate to each other as equals only insofar as they relate to each other as instruments for the attainment of commodities.

It is key to remember that for Marx the exchange relationship is the condition through which individuals socially engage each other. The diagnosis of the formal side of the exchange relationship, then, is not merely an economic one. Rather, as Marx diagnoses the details of economic interactions he, at the same time, is also characterizing the nature of human relations in general. The mutual indifference of exchangers is also the mutual indifference between persons in general, as modes of human interaction model their economic counterparts. The primary insight here is that insofar as persons interact with each other as equals, insofar as they encounter each other in their world, the form of their interactions is instrumental relationality.

Economically each recognizes the other only as a potential tool for the attainment of a desired commodity. The explicitly ethical import to this is that the equality of persons is predicated on a

¹¹⁰ Ibid.

¹¹¹ Ibid., 241-2.

foundational detachment – alienation – from other persons and by an intersubjective coldness, “indifference” to the other person as person. Written into the forms of social behavior within capitalist society is an ethos of indifference and of distance between persons, and the primary lens through which we understand others is instrumentality.

Complimenting the formal side of the exchange relationship is what Marx terms the “social” side of the exchange relationship, or the “content outside” the explicitly formal economic aspects of it. Unlike the formal side of exchange, the social relation of exchange concerns the particularities of the interaction between the parties to the exchange. These particularities include a) the particularity of the commodity to be exchanged, b) the particular needs of the exchangers, or c) the distinct use values¹¹² of the commodities to be exchanged.¹¹³ Like the formal character of exchange, Marx explains that the social relation of exchange exhibits a relation of equality between the exchangers. In this sense, the exchangers are equal insofar as each possesses a particular object of need or desire for the other. Their equality resides on the fact that each has something of use to the other and can, then, meet the need or desire of the exchange partner. In the content of the exchange, the exchangers meet each other as “persons.”¹¹⁴ Equal as persons, the exchangers are here not indifferent to one another as particulars. Rather, each needs the other for the explicit reason that one is able to produce a product the other cannot, yet which the latter needs or desires.

By recognizing that each can provide a commodity (in terms of its use value) for the other, each recognizes the other person as “productive.” In Marx’s term, the exchangers mutually recognize one another’s “species being;” they grant mutual recognition of each other’s

¹¹² Use value is the value of the object as the unique object it is and the specific function it performs. Commodities of different natures, then, have incommensurate use values because they perform fundamentally distinct, non-equivalent functions. Marx, *Capital*, 41.

¹¹³ Marx, *Grundrisse*, 242.

¹¹⁴ Ibid.

capacity to appropriate nature and externalize themselves creatively, as producers, in an object (with a particular use value) of their creation.¹¹⁵ Acknowledgment of another's species-being, which is the essential quality of humanity as Marx defines it, is to likewise grant the other recognition as a "human being."¹¹⁶ To recognize another in her humanity is, therefore, to acknowledge her as more than an abstraction, i.e., merely quantitatively valuable exchanger.

Coming together as "social equals" creates a condition of reciprocity within the exchange relation. Reciprocity manifests itself in the recognition of the other as producer because this recognition prevents her from simply appropriating the desired commodity by force. The parties to the exchange view each other as "proprietors" of the commodities in question and, therefore, each grants the other's right to the object of her creation. Each acknowledges it is a violation of the other to forcibly attain the product of the other without equivalent compensation and a consensual agreement to exchange. In this sense, Marx tells us, they consummate "free trade." Free exchanges respects the freedom of the parties involved.¹¹⁷

At first glance it appears Marx casts the social element of exchange as a corrective to the indifference and intersubjective detachment endemic to exchange in its formal sense. The parties to exchange appear to be granted substantive equality through recognition and reciprocity, in addition to the exchange representing and respecting the freedom of the individual. Despite this appearance, however, Marx explicates the characteristics of the social element of exchange in order to show that, like its formal element, it is predicated on alienation from the other. In identifying the other party to the exchange as one possessing something one needs or desires, Marx contends that the recognition of productivity granted is, at bottom, motivated exclusively

¹¹⁵ Karl Marx, "Estranged Labor," in *Early Writings*, trans. Rodney Livingstone (New York: Penguin Books 1992), 329.

¹¹⁶ Marx, *Grundrisse*, 243.

¹¹⁷ *Ibid.*, 243.

by the desire to satisfy one's own ends. If this is the case, the apparent recognition of equality in each other's humanity is, in fact, merely the recognition that the particular other in the exchange can serve as an adequate means for attaining one's own interests.¹¹⁸ Positing the humanity of the other is conditional only upon the other's ability to serve one's ends. Persons are granted personhood only as a result of their value as, in Kantian terms, a mere means to the self-interests and desires of another. Diagnosing the social element of exchange and the apparent recognition of freedom found therein, Marx shows that it creates only the illusion of recognizing the other in her humanity and as someone she ought to grant respect. Contrary to this illusion is the reality that each is motivated to relate to the other insofar as there is something to be gained from this interaction. The true aim is to egoistically pursue one's desires and self-interests and to utilize another in order to do so. Therefore, we again arrive at relationality as instrumental.

Marx identifies the ramification of this interpretation of relationality within exchange in stating, "Out of the act of exchange itself, the individual, each one of them, is reflected in himself as [the relation's] exclusive and dominant (determinant) subject."¹¹⁹ Relationality is such that the self is always posited in the position of primacy within a hierarchy of self and other. Each satisfies her own needs and is, once again, indifferent with regard to the needs of the other.¹²⁰ Despite the appearance of respect for and investment in the other's particularity as human producer, the relation between the two is an antagonistic relation wherein each posits herself as subject while identifying the other as the instrumental object necessary for meeting her need or desire. Reciprocity and equality are concepts premised on rendering others the means to one's ends in an explicitly antagonistic manner. This is possible because the very nature of relationality within capitalist society is instrumental relationality. Furthermore, this

¹¹⁸ Ibid., 244.

¹¹⁹ Ibid.

¹²⁰ Ibid.

instrumentality, from the above, is the undergirding framework for the liberal principles of freedom and equality, as they are themselves ideological expressions of the existing mode of production.

Taking into consideration Marx's contention that the material conditions of society – here capitalist exchange society – determine all forms of social relation, all the way down, Marx's analysis of the exchange relation is in fact a diagnosis of human relationality under the conditions of capitalism. This analysis culminates in the observation that, "Equality and freedom are not only respected in exchange based on exchange values, but, also, the exchange of exchange values is the productive, real basis of all equality and freedom."¹²¹ As historically and materially situated concepts, freedom and equality, the supposed moral categories of the liberal natural rights discourse Marx associates with capitalism, are expressions of the competitive and antagonistic relations between individuals within the free market. Equality is equality only insofar as a) individuals are abstractly, "formally," equal in their status as bearers of quantitative value and b) individuals reciprocally represent an instrumental utility for the fulfillment of one's egoistic interests. Freedom amounts to little more than the freedom to posit oneself as a means for the satisfaction of the desires of another through production of objects and contractual exchanges, while the other posits herself as appropriator from a self-posed position of primacy.

To this point we have framed Marx's interrogation of freedom and equality as liberal concepts through the relationality of persons, but it is worth reiterating that the diagnosis of these concepts likewise pertains to the form they take in the formal institutions of the state. Critique of freedom and equality in their status as normative concepts governing the relations between individuals within the modern state is of specific importance to the question of the obligations of ethics because it uncovers the undergirding principles of the subject of natural rights. Marx

¹²¹ Ibid., 245.

notes that freedom and equality are the constitutive concepts of the ethical-juridical “person” within the state.¹²² From the above, we can further Marx’s point here in noting the following: If no individual seizes the property of another by forcible appropriation (right to property) and one must consensually agree to the exchange without coercion or external force (right to freedom), and if these two principles are respected no one will be harmed in the exchange relations (right to life), then Marx can claim (once again on the premise that economic relations define ethical and political norms) to have shown that the categories of natural rights are always already the categories of the exchange economy. The principles defining the ethical obligations one must respect in capitalism, i.e., the rights of a free and equal individual, are premised upon indifference to others, a callous detachment from the person with whom one is in relation, the exchangeability and instrumentality of persons, competition and antagonism, and the freedom to render oneself a means to others desires and, likewise appropriate others in such a manner. Furthermore, from the position of the state, the moral principles undergirding its laws and defining the guarantees and entitlements owed to the individual are but expressions of the same logic. Legal rights formally codify and facilitate relations between persons as exchangers, nothing more.

Significant for our purposes is that Marx’s analyses of equality and freedom as bourgeois concepts links, as we hope has been shown, to his concept of alienation. Alienation, in this case specifically the alienation of person from person endemic to mutual indifference and instrumental relationality, as well as alienation from oneself, seen in the experience of life as a mere means to life. These conditions constitute what, for our purposes, we will call dehumanization. By dehumanization we mean a condition wherein the individual does not exist as a particular, creative and productive self expressing herself through the objectivity of her

¹²² Ibid., 244.

labor; the free and equal individual accordant with Marx's critical diagnosis of selfhood and relationality in exchange society is an object of appropriation for others and experiences/is experienced by others through a paradigm of indifference and egoism. Furthermore, the species-being of a human being is quashed by conditions wherein, as Marx puts it, "Life is simply a means to life."¹²³ Life is a practice merely of ensuring continued life; one's practice and projects – one's relation to herself and the realization of her ends in productive activity – is aimed solely toward the end of continued existence. Given that the principle conditions for relations between persons is one wherein persons are already dehumanized as such, that the causes for this dehumanization are constitutively built into these relations, exchange society creates a feedback loop wherein the continued dehumanization of persons is the result. The key insight deriving from this is that individuals exist in exchange society as dehumanized, yet the very categories grounding individual rights and their requisite obligations are the manifestation of the logic of exchange society itself. The conditions for dehumanized and alienated selfhood are themselves the ethical categories to which individuals may appeal in order to make ethical claims against dehumanization and exchange society and which would ground any demands for, or permutations of, political redress, insofar as these appeals are made positively and through the concepts of the existing material conditions of society. The concepts which would provide the normative content of ethical redress in this case are the very concepts creating the conditions to which they would seek to amend. Exchange society does not contain the resources for articulating ethical obligations capable of correcting the harm of its ideological social relations.

In sum, we can synthesize a number of conclusions from the above. First, Marx categorizes relationality between self and other as premised, from the start, on instrumentality – use, appropriation, and indifference. Furthermore, in categorizing one's relationship to herself

¹²³ Marx, "Estranged Labor," 328.

within exchange society as life as a means to life, Marx sees that one's own productive effort, projects, indeed very relationship to self, are also marked by instrumentality. All experience is the fodder of ensuring survival, which constitutes one's relationship to herself as valueless beyond its use toward this end. Finally, there are no extant ethical values to appeal to positively toward calling for an end to this condition and, from this, there are no normative appeals to be made to the apparatus of the state toward transforming the conditions under which life is lived. The values of the market, i.e., competition and mutual indifference, constitute the experience of life and of relation to herself, the ends toward which life is lived and projects undertaken, and the character of all relations to others.

What is left, then, is the project of critical interrogation of these conditions, i.e., negative critique. Critique constitutes the possibility for an ethical intervention in the ideological reflexes of exchange society, as a critical reflective practice of the individual. Critique uncovers the underlying presuppositions of existing forms of behavior; it exposes ideology in order to break the illusion that the current states of social life, of current forms of relationality (to self and to others), of economic life and its complimentary political structures are natural and inevitable. Critique is an active, if still intellectual, intervention into the existing order. Marx's concept of an immanent negative criticism creates the possibility of imagining a social world – in this case a specifically ethical-political world – otherwise than its current state by exposing what is lacking from human life and the techniques through which the existing material conditions replicate themselves. Critique is the capacity to judge what ought not be, to identify the mechanisms within the structure of society perpetuating it. In doing so, it also offers an opaque and imaginative depiction of how the material conditions could be transformed to eradicate the objects of this judgment. In its capacity to uncover the generative sources of dehumanization,

and in that dehumanization ought not be the state of human life, critique is itself an ethical imperative. Intervening in and disrupting conditions that ought to be otherwise is the act of realizing the possibility of a non-ideological practices - of ethics counter to the existing state of affairs. Though Marx himself refrained from framing critique in this manner, critique is an ethical intervention into the prevailing social norms with the end of igniting a revolutionary transformation of society containing the potential to reconstruct the material conditions of society in a more human – ethical – image.

It is worth noting first that the ethical imperative for social transformation, while Marx does characterize such transformation as “political,” cannot appeal to the existing legal-judicial structure of the state as the resource for transformation. Like the moral concepts critiqued above, the state is constituted as the reflection of exchange society. Indeed, it is comprised of the concrete institutions and laws established through these principles. Transformative political action must avoid itself becoming a reactionary reflex of the order it aims to overthrow. If this is so, then the political, i.e., actionable expression of the critical ethical imperative for an intervention in exchange society, must take the form of revolutionary political action guided by the content of the critique of the social structure and accompanying ideology, rather than existing political norms or forms of redress. In other words, appeals to moral rights, indeed to all existing ethical frameworks in general, will only reaffirm and recreate their existing, ideological form.

Through a reading of Marx’s eleventh thesis on Feuerbach, we can connect the ethical insights provided by the theoretical critical intervention into the existing conditions of social life with a conception of transformative political action. Famously, Marx states, “The philosophers have only interpreted the world, in various ways; the point is to change it.”¹²⁴ Rather than read

¹²⁴ Karl Marx, “Concerning Feuerbach,” in *Early Writings*, trans. Rodney Livingstone (New York: Penguin Books, 1992), 423.

this as a simple indictment of hitherto existing philosophical interpretations of the material world (which Marx is certainly doing), and therefore a rejection of philosophy, i.e., of critical intellectual activity, as the engine for social change, we might take notice that Marx's demand that the world ought to be changed does not preclude the possibility of transformation of the material conditions of society being guided by such theoretical considerations. By theoretical considerations we do not mean the abstract philosophical theorizing Marx is condemning, but the critical theoretical intervention into the material world represented by Marx's "ruthless critique of the existing order." To "change the world" would, then, entwine the critical ethical analysis of exchange society with the burgeoning potential for non-ideological political action. Stripping the moral categories of exchange society of their veneer of independence from the economic processes of that society and exposing the conditions of dehumanization these economic processes engender likewise unveils the exigency of transformative action in opposition to these conditions. Opposition as such aims toward a revolutionary transformation of the structure of society and the emergence of distinctly new ethical conceptions of the self and of social relations capable of maintaining a more humane social order. In other words, transformation of the material world produces new concepts for understanding and motivating human relations. Ethical-theoretical critique of society incites the necessity of transformative action. Marx's eleventh thesis, then, represents the uniting of theory and praxis in an ethical-critical imperative for actionable social transformation.

If ethical-critical diagnosis of exchange society reveals the urgency of revolutionary action, Marx explicitly terms this exigency a political one. "Emancipation" from exchange society and from the alienating and dehumanizing social processes particular to it expresses itself

in “political form.”¹²⁵ Emancipation as such is emancipation from the prevailing social conditions which render individuals to the level of abstraction, positing them merely as interchangeable “exchangers.” In turn, emancipation from the processes resulting in this hypostatization is emancipation from the indifference and detachment from others and from the condition of being recognized and recognizing oneself as but a means to the satisfaction of another’s needs and desires. Political action struggling for the emancipation of persons from these conditions, should it succeed in its transformative aims, breathes life back into persons, the qualitative particularities which exchange society strips away and replaces with quantitative instrumentality and the revitalization of human productive capacity as creative, rather than solely aimed toward survival.

Politics, then, is the struggle against the existing structure of society toward a negatively imagined possibility for a revolutionized image of freedom and equality. With this normative aim, political transformation overturns the material conditions of society and reshapes them toward the possible realization of these more humane conceptions of freedom and equality. Political actors critically rethink the possibilities for restructuring and revolutionizing the material structures of society such that freedom and equality as such could potentially realize themselves concretely as the byproduct of a new material-structural order.

For Marx, the critical-negative countenance of freedom and equality gesture toward forms of social relations in distinct opposition to those existing within exchange society. Freedom, Marx insinuates, would no longer take the form of an atomic and alienated individual subject of voluntary exchange. Rather, Marx suggests, “Only in a community with others has each individual the means of cultivating his gifts in all directions; only in the community,

¹²⁵ Marx, “Estranged Labor,” 333.

therefore, is personal freedom possible.”¹²⁶ To realize freedom otherwise than its form in exchange society, political transformation of society rethinks modes of production and economic relations such that genuine association between individuals is possible; these are conditions wherein the self is both liberated from the necessity of exchange and the labor requisite to it and in which cooperation replaces the mutual indifference of subjectivity within capitalism. Out of the dehumanizing form of social relations presently existing emerges a social structure wherein individuals are mutually cooperative and, as such, collaborate to ensure each has the material and economic means for realizing her talents as a genuine expression of the creative possibility of species-being.

Marx further gestures at what freedom ought to resemble in a cryptic yet instructive passage: Whereas in the rigid division of labor characteristic of exchange society the individual is posited as her particular function within the division of labor – she is a fisherman, a shepherd, machinist, and so on – transformative politics aims at a sense of self posited in accordance with the free exercise of her productive capacities; he says,

“[I]n communist society, where nobody has one exclusive sphere of activity but each can become accomplished in any branch he wishes, society...makes it possible for me to do one thing to-day and another to-morrow, to hunt in the morning, fish in the afternoon, rear cattle in the evening, criticize after dinner, just as I have a mind, without ever becoming hunter, fisherman, shepherd or critic.”¹²⁷

Transformation aims at overturning the conditions rendering one an interchangeable exchanger of a commodity toward the possibility of revitalizing the possibilities of human species-being and of the free cultivation thereof. To do so is to resist the hypostatization of individuals into

¹²⁶ Marx, *The German Ideology*, 193.

¹²⁷ *Ibid.*, 177.

abstractions appearing to others as little more than objects of satisfaction and utility. Finally, the derivative result of material conditions so reconstituted is that communal individuals, in their cooperative association, recognize each other reciprocally as truly equal exemplars of human productive capability; they recognize each other as equal not on the condition that each possesses a quantitative value or a commodity of desire, but as self-positing human beings and, therefore, as qualitatively distinct, not quantitatively identical. So, revolutionary transformation of society results in the end of alienation from others, creating a paradigm of relationality wherein one does not relate to and is not related to by others as interchangeable and instrumental, and wherein persons share common, cooperative ends. Likewise, one's relation to herself shifts from the experience of her labor and projects as mere means to survival to the free expression of one's creative and productive capacities, which are no longer predetermined by the necessities of the market. Respectively, these transformative possibilities represent what equality and freedom could be within post-capitalist material conditions.

These are but a few gestures at the possible forms of human relations Marx hints at as characteristic of a post-capitalist society. The crucial insight of the present discussion is that, while perhaps a heterodox reading of Marx, there is reason to believe that Marx's critical project itself issues normative imperatives that the material conditions of society ought to be overhauled. These imperatives call for urgent transformative political action, guided by the, albeit opaque, ethical thrust of the critique of society in its present form – action for a fundamentally more humane human social order, beginning with the material conditions of the social structure. If this is the case, then in Marx we can locate the emergence and intersection of an ethics and politics of resistance which are, by virtue of their negative-critical nature, constituted not positively, but in opposition to the prevailing order of things. These constitute a non-ideological,

yet intelligible motive for political action in the interest of human emancipation from exchange society. The possibility and openness of such a negative conception of the ethical-political can be found in Marx's characterization of "communism." Communism is not a positive prescription for a new social order but is rather, "Communism is for us not a stable state which is to be established, an ideal to which reality will have to adjust itself. We call communism the real movement which abolishes the present state of things."¹²⁸ If communism is the continual contestation and revision of the present order of society, then the proposed ethical-political reading of Marxian transformation we offer perhaps provides tangible content to the motive for communism's ongoing transformation of society.

The above ethical-political reconstruction of Marx centers on the link between two forms of activity. The critical intellectual reflection of the self generates the motivation for transformation of the material conditions of society by mining experience within the present for the harms it creates, what we have termed dehumanization. Critical ethical activity, then, motivates and generates transformative political action, or the restructuring of the material world. The link between these two forms of activity is the condition for transformative change, the realization of Marx's revolution.

Yet, there is an internal conflict within Marx's account of social transformation. This conflict is the result of the relationship between Marx's concepts, specifically the centrality and primacy of revolutionary action, given the conceptual definition of ideology. As we have seen, Marx characterizes all subjective experience, i.e., the consciousness of the subject, as thoroughly determined by the existing material conditions of society. All patterns of human practice, and all positive conceptual tools for understanding these behaviors are expressions of the present. If this is so, then the condition for alternative practices, as well as their conceptual justifications, is for

¹²⁸ Ibid., 179.

revolutionary action to have already taken place. Action must precede the creation of non-ideological forms of practice and relationality, as well as their positive justifications. Prior to transformative action, all activity outside of negative critique remains an ideological reflex of exchange society. If this is the case, then Marx's theory of revolutionary praxis is, first, a self-undermining gap between critique as the motivating activity for social transformation and collective, cooperative action as its realization and, second, a failure to free his account of revolutionary practice from the paradigm of instrumentality found within the consciousness of the exchange society he aims to overturn.

Regarding the bridge between the critical interrogation of the present and transformative action: critique uncovers what lies beneath the ideological justification of the present, but it does not itself, on Marx's terms, necessarily or concretely transform the consciousness and practices of the individual. Marx's contention is that negative criticism of the present can identify how the structures of the material world shape one's experience in the world and her relations to others; it uncovers the sources of dehumanization found within the practices and material structures of the present. For Marx, however, this is not yet to unbind the subject from the form of consciousness endemic to the present, nor is it yet the creation of alternative forms of practice. Critique is diagnostic. It uncovers harms and points to absences within the present. Importantly, it does not transform the present in itself, nor does it yet create a new subject.

Key here is that Marx has characterized the subject as determined by egoism, atomism, and self-interest, and that these concepts constitute and determine the nature of the subject in the present. If this is so, the Marx has yet to explain how and why mutually indifferent and antagonistic subjects bridge the moment of critical reflection to the formation of cooperative associations making collective transformative action possible, since cooperation, and with it the

subject lens through which relationality could be understood as sharing mutual ends and interests both in practice and in discursive formulation, are the results of structural, material transformation. Cooperative association is the antithesis of mutual indifference, yet it is also the condition for action within the present, and this action is, within the structure of Marx's conceptual framework, the condition for the subject capable of cooperative relationality in the first place.

Here we hit the point where Marx's dialectical materialism as a conception of the necessary movement of history runs up against the account of a determined subject made necessary by this historical thesis. Marx approaches the question of material transformation as though the formation of a radicalized populace united in cooperative action is the automatic, necessary, and inevitable result of the "contradictions of material life."¹²⁹ By contradictions we mean the internal tensions built into the structures of material life and, therefore, built into the experience of the subject within the present. These tensions are the content revealed in the diagnostic interrogation of the present Marx defines as critique: the experience of oneself as a productive being capable of fabricating and manipulating the world creatively, yet one's productive capacities limited only to the labor of survival, the experience of oneself as relational, yet separated from others by antagonism and competition, the experience of one's labor as a tool for the creation of value one does not herself receive. Inevitably, to feel these contradictions in experience and to critically interrogate their sources results in explosive material transformation. Once the material contradictions of a given historical period have arisen, then, revolution is predictable, "with the precision of the natural sciences."¹³⁰

¹²⁹ Marx, "Preface," 426.

¹³⁰ Ibid.

However, this speculative faith in the formation of a revolutionary collective cooperating in transformative action appears naïve on Marx's own conception of the subject. What remains unclear is how and why egoistically motivated individuals, indeed individuals whose experience and consciousness is determined from the start by egoism and mutual indifference to others, would experience the conditions of others as a concern of their own. Critique, in its negativity, is constitutively limited such that it cannot conceptually contain a positive account of responsibility or empathy capable of reorienting the subject's consciousness away from individualism and egoism and toward communal cooperation and communal interest. If this is so, then Marx cannot account for the subjective experience of responsibility for, or empathy toward, those with whom one inhabits the present. Material transformation alone is capable of producing practices and concepts oriented toward cooperative association, yet that the action necessary for realizing such a transformation already presumes a post-capitalist subject. So, while critique holds the ethical import for Marx's conception of revolutionary action, and while that ethical import issues the demand for transformative action, the constitution of the subject engaging in critique is also the barrier to its movement from reflection to collective action in that the constitutive egoism and indifference to others characteristic of this subject ought to conceptually preclude the experience of motivation toward cooperation, communal ends, and shared practice.¹³¹ To motivate and coordinate collective action requires a subject capable of experience outside of norms, practices, and discursivity of the present, but this subject is possible only as the result of this very action and of a transformed world. Consequently, the logic of transformative action is circular in that

¹³¹ This does not preclude the possibility that critique of one's conditions may not cause her to see that the structures of society could be improved to her own subjective interests. However, on Marx's terms this cannot be the catalyst for transformative action. Were individuals to come together and act toward the alteration of society such that each gains toward her individual ends, such action clearly represents the perpetuation of the atomism and egoism of exchange society. Each acts, even together, yet for herself. Action of this sort, even if engaged in by a multiplicity of actors in concert, amounts only to the recreation of the same conditions out of which it sprang.

revolutionary practice constitutes its own necessary condition for possibility (social transformation must have already taken place in order to motivate the action that would bring it about in the first place), and the logic of the subject itself constitutes the barrier to the formation of collective political aims or agency.

Marx prioritizes action as the concept of the political, at the expense of an account of ethics able to positively motivate collective action beyond the negativity of critique, and in doing so traps the subject in the ideology of the present, in the forms of behavior endemic to the society that subject must overturn. In doing so, within his own logic, that subject, then, ought to lack the discursive and normative resources for joining others in transformative political practice, the very end toward which the political aims.

CHAPTER IV

ARENDT: NATALITY, FREEDOM, AND THE BOUNDARIES OF THE POLITICAL

This chapter presents a reconstruction of Arendtian politics. It begins with Arendt's account of the subject and shows that the concept of natality is not only the fundamental condition of subjectivity, but is also a political concept. This is shown by establishing the direct link between Arendt's account of the subject as the site of newness and creative potential and her account of action. It is shown that Arendt's account of action, linked with the world-creating condition of natality, produces an agonistic account of politics premised upon active subjects meeting in public, political contest and that this activity of public engagement between subjects is the source of legitimate political power.

Action is not undertaken for its own sake, however. While Arendt does not herself provide a direct account of ethics, our discussion examines Arendt's conceptual framework and asks whether there is an ethical import to an Arendtian politics. It is argued that from the concept of action a normative core of freedom and equality can be derived, since freedom is, for Arendt, the conceptual flip-side of action. The aim of politics, then, is to realize and maximize freedom in public, as well as to ensure the freedom of each singular subject is equally recognized. Action, then, is aimed at engagement with the existing institutions of the political world, and aims towards their revision and the augmentation of freedom and equality.

Finally, the implications of this account of Arendtian politics are examined. Namely, it is argued that within Arendt we find a constitutively unstable form of democratic practice, within which power is derivative of the concrete political activity of the body politic. While constitutively unstable, the aim of politics is not to undue the existing world, but to ensure that

the present is in a continual state of metamorphosis, out of which new worldly institutions and practices emerge, and that these practices are predicated on the augmentation of the subject's capacity to express herself as free in public space.

However, it is argued that since Arendt ties the normative core of politics to the concept of action there are internal limitations placed upon who may, and what may be, expressed in public, i.e., be the legitimate source of political claims and the legitimate content of political expression. Action is strictly separated from matters of necessity, meaning that both politics and its normativity likewise exclude any and all concerns deriving from necessity. As is shown through the example of Arendt's critique of poverty as the subject of politics, the conceptual framework of Arendtian politics excludes from politics the claims of those who are adversely affected by the existing material conditions of the world, therefore producing silences where there should be the proliferation of self-articulations, and at the same time lacks the conceptual tools necessary to normatively motivate redress to both this silence and to the conditions creating it.

To speak of subjectivity with Arendt is first to speak of what she terms "natality." Arendt places the human fact of birth and emergence into a world at heart of the human subject. Describing natality as the core of the human condition, she explains, "the human condition of natality" or "the new beginning inherent in birth" makes, "itself felt in the world only because the newcomer possesses the capacity of beginning something anew[.]"¹³² The subject embodies the arrival of something singularly new and distinct to the world. Subjectivity is the ongoing emergence and articulation of the singular perspective brought into existence through birth, a continual manifestation of the subject into her world.

¹³² Arendt, *The Human Condition*, 9.

Human life and, therefore, human subjectivity are characterized by an ever present potential for new beginnings. By new beginnings Arendt intends that “all human action” contains a “sense of initiative.”¹³³ Every human action¹³⁴ - word and deed –contains the potential for bringing something new, unprecedented, and unexpected into the world. Natality is the productive condition of human life. Explaining the creative potential of natality as internal to human subjectivity, Arendt juxtaposes active potentiality with laws of nature and necessity. Whereas nature, she argues, functions automatically through mechanistic, predictable, and necessary processes, as a continual emergence of the self into a world human life is not (wholly) bound to necessity. Human initiative, natality, is dynamic and contingent. In Arendt’s words, “Action,” and therefore life as natality, “is unique in that it sets in motion...something new, seizes the initiative, or in Kantian terms, forges its own chain.”¹³⁵ Subjectivity, as acting within one’s world, is a continual creation of idiosyncratic and unrepeatable strings of cause and effect. Something new and entirely specific to its creator enters the world with every deed. Unlike anything else,¹³⁶ human subjects are capable of affecting and altering their world, indeed of creating it for themselves. Every seizure of active potential on the part of the subject transforms the world by spawning something *sui generis*.

Natality as the enactment of creative potentiality is the characteristic feature of human freedom. Returning to Arendt’s Kantian terms in the passage above, natality can also be understood as the spontaneity of the subject. As Arendt puts it, spontaneously free acts, “by

¹³³ Ibid.

¹³⁴ Action is a central concept for the present discussion. It is the crux of natality and creative potential. With this said, a full explication of action as Arendt understands it and its relation to the freedom of the subject and to the public space of the political comes below, since it is helpful to flesh out Arendt’s distinction between the loss of the public sphere and its reemergence. For the moment we take the word to represent the speech and concrete volitions of the subject.

¹³⁵ Arendt, *The Promise of Politics*, 113.

¹³⁶ Arendt is not shy in her human exceptionalism. While this certainly leaves open a problematization of the question of animal spontaneity and creativity, such a discussion is beyond the scope of the present discussion.

definition are occurrences that interrupt routine processes and routine procedures[.]”¹³⁷ The freedom of the subject, embodied in the act, irrupts into the world, disrupting the maintenance of normalized procedures and of the continual flow of the status quo. If human subjectivity is essential natality and freedom, then humans are not bounded to the necessity of the present. Importantly, for our purposes and as will be further developed below, this means that existing social norms, cultural practices, or institutions of governance and their existing iterations are not themselves necessary in their present form.

That the subject is free in word and deed – the spontaneity and contingency of natality – leaves the world ever in flux, as natality and its consequent creations, embodied in these words and deeds, are essentially unpredictable. For Arendt, the consequence of human freedom is that the world must be repeatedly recreated through the deeds of subjects; the complexion of the future is constantly altered and left an open question. She states,

“Predictions of the future are never anything but projections of present automatic processes and procedures, that is, of occurrences that are likely to come to pass if men do not act and if nothing unexpected happens; every action, for better or worse...destroys the whole pattern in whose frame the prediction moves and where it finds its evidence.”¹³⁸

Freedom as the dynamic core of natality imbues the world in which it moves and acts with this same dynamism. No state of affairs is, in itself, necessary.¹³⁹ If we understand the spontaneous

¹³⁷ Arendt, *On Violence* (Orlando: Harcourt, Inc., 1970), 7.

¹³⁸ Ibid.

¹³⁹ A caveat ought to be noted here. Of course there are necessary aspects of human life, the need for food and shelter for example. These factual necessities, however, are elements of what Arendt terms “labor,” a sphere of life and activity separate from “action” and freedom within the *vita activa*. Labor, Arendt tells us, “is the activity which corresponds to the biological processes of the human body...The human condition of labor is life itself,” or, of sustaining oneself physically. Arendt, *The Human Condition*, 7. Freedom, therefore, transcends the sphere of labor (which will become important for us below). For an extended treatment of the idea of the body in Arendt’s work, including a revision of her position wherein the body can more clearly enter the realm of politics, see John

arrivals of natality both as the emergence of new individuals as well as the spontaneous arrival of new and unforeseen happenings, then, “the world is daily renewed through birth and is constantly dragged into what is unpredictably new by the spontaneity of each new arrival.”¹⁴⁰ Birth, here, takes a double meaning. In the first, literal sense we see the concrete arrival of new and singular selves. Extending Arendt’s claim figuratively allows us also to see the connotation of the arrival of each of the subject’s endeavors and initiatives as something distinctly new to the scene. The world is renewed – fundamentally altered – by human deeds. The consequence of natality is that the present, the world, is continually in disruption, insofar as subjects are active. Subjectivity is the ongoing process of acting in one’s world spontaneously and, in turn, reconstituting and recreating that world in ongoing activity and projects. In these activities and projects, then, we see not only that an altered world, a world other than the present, is possible, but indeed that it is inevitable so long as the activity of subjects is possible.

To this point our discussion has focused on the subject as an individual agent acting in and on a world into which she emerges. However, we cannot understand what Arendt intends by the concept “world” without noting that its very possibility is predicated on intersubjectivity, being-with-others. By world Arendt means the nexus of human actions and artifacts, objects of human creation, in which and in response to which life is lived. Worldliness connotes that all lives are mediated by a world of things, and the, “affairs which go on among those who inhabit the man-made world together,”¹⁴¹ and is, then, “distinctly different from all natural surroundings.”¹⁴² In other words, the world is created by the work of human hands.¹⁴³ World is

Tambornino, “Locating the Body: Corporeality and Politics in Hannah Arendt,” *The Journal of Political Philosophy* vol. 7, no. 2 (1999): 172-190.

¹⁴⁰ Arendt, *The Promise of Politics*, 127.

¹⁴¹ Arendt, *The Human Condition*, 52.

¹⁴² *Ibid.* 7.

¹⁴³ “Work” is the third and as yet unmentioned form of activity within the *vita activa*. Work is the activity of fabrication. It differs from labor in that its products are not explicitly or exclusively created for consumption.

possible only because humans always exist within a space constructed through their efforts and which all share in common. World and subject are co-constitutive: subjectivity is possible only as mediated by an already existing world of human creations and of other subjects; world conditions the subject, yet is directly resultant from the physical and intellectual work of subjects.¹⁴⁴ In sum, subjectivity is possible only as it always already presumes the presence of others – intersubjectivity, relationality, and a shared world of human creation. To say all life is mediated by a shared world, then, is to say that the subject’s words and deeds emerge into, but also respond to and interact with, our common world, the fabrications of human creativity, and the multiplicity of others inhabiting and sharing the world.

The world in which natality manifests itself as action is set apart from the “private realm.” Private space consists of labor and the maintenance of physical life and anything pertaining to the needs of biological life or attached to physicality. Private space is the space of necessity. Arendt describes this private space alternatively as the space of the “household” in contradistinction to public space consisting of a shared world. Abstracting the content of private life from the world leaves a public realm in which action takes place and free subjects meet in interaction.

Explaining the nature of the public sphere, Arendt explains,

“the term ‘public’ signifies the world itself, in so far as it is common to all of us and distinguished from our privately owned place in it...To live together in the

Whereas the products of labor are used and expended in the sustenance of life, work’s products are designed to endure in time and, indeed, beyond the worker’s lifetime. Hence, it is the enduring realm of the objects of human creation. Work differs from action, however, because unlike action, as we will see, it does not require the presence of others for its enactment. Individuals can create art, for example, in isolation. It is the public nature and spontaneity of action that makes it a self-transcending activity. Arendt, *The Human Condition*, 136-7.

¹⁴⁴ Arendt, *The Promise of Politics*, 107.

world means essentially that a world of things is between those who have it in common.”¹⁴⁵

For Arendt, the space in which subjects meet and relate to each other through action and speech is necessarily a sphere of diversity and human plurality. When one acts with “maximal publicity,” i.e., amongst others in a shared public world, the public becomes a space of unpredictability and potential for new forms of life and ways of relating to other subjects, given the intrinsic unpredictability of natality itself.

Being seen and heard in public, “derive their significance from the fact that everybody sees and hears from a different position.”¹⁴⁶ Perspectival difference allows for flux and creativity within what Arendt calls the “web of human relations.”¹⁴⁷ All human activity necessarily interacts with an already existing worldly reality full of narratives, of other people and their singular and essentially unique stories, histories, and the strands of deeds which they have interwoven into the complex webbing of human life. All action “moves among” and “is in relation to” “other acting beings.”¹⁴⁸ Put otherwise, the public realm exists as the space wherein subjects “disclose” themselves – come into the world and announce “this is who I am,” through action and speech. Selfhood, “who” someone is, appears in public space in interaction between subjects as each lives out the “enactment” of her “story.”¹⁴⁹ Arendt’s public is, then, the sphere wherein subjects become selves, individuate themselves as essentially “singular” – an individual like no other before her and the likes of which there will never be another; every “newcomer” in the world answers the question “who are you?” through the her acts and words.¹⁵⁰

¹⁴⁵ Arendt, *The Human Condition*, 52.

¹⁴⁶ *Ibid.*, 57.

¹⁴⁷ *Ibid.*, 183.

¹⁴⁸ *Ibid.*, 190.

¹⁴⁹ *Ibid.*, 181.

¹⁵⁰ *Ibid.*, 178.

Freedom of action and speech in the public, in turn, is the foundation of human equality. By ensuring the condition for the existence of individuation, freedom creates, the condition for subjective distinction. For Arendt, the plurality of distinct human beings, essentially different from each other, yet able to understand one another and recognize one another's individuality displays the existence of equality between subjects.¹⁵¹ Were subjects not equal, in Arendt's view, this recognition of individuality and distinction would be impossible. Recognition of distinction demands the acknowledgment that individuals are, just as oneself, due the ability to disclose themselves in free action and speech and, attendant to this, are to be granted respect as an equal.

While Arendt does not explicitly outline a positive political normativity, we can glean from her emphasis on freedom and equality in the public, recognized in intersubjectivity, that the augmentation of freedom, as the subject's capacity to interact with her world through speech and action, and equality, as recognition of and respect for others' difference and capacity to act, are the substantial goals of the political. As plurality and difference is the possibility for the realization of the freedom and equality of the subject, the freedom to individuate through interacting with others in the web of human affairs and, in doing so, to experience and recognize difference and equality are the substance of the political. Arendt states, "In this sense politics and freedom are identical, and wherever this kind of freedom does not exist, there is no political space in the true sense."¹⁵² If subjectivity is the free expression of one's creative potentiality and this freedom is the political itself, then we can understand Arendt's conception of the political to be the activity that realizes free public space and intersubjectivity between equals. Politics is free action in public space, toward the end of (re)creating and (re)shaping our shared world with

¹⁵¹ Ibid., 175.

¹⁵² Arendt, *The Promise of Politics*, 129.

the end of a maximal public space of freedom wherein subjects constitute and recognize one another. Put otherwise, politics is action able to proliferate spaces of freedom and difference. More concretely, let us return to Arendt's contention that to be an actor in the world is to interact with and respond to the "affairs" of our shared world. These affairs constitute the political objects and human creations of our world, the institutions of political life and the practices of public inclusion. Public political life is, then, free engagement with such institutions, crafting and recrafting them toward the realization of augmentation of freedom and equality.

At this point it is important to note that Arendt develops the conception of freedom and the political in opposition to what she observes to be the nature of the "modern nation-state." Arendt argues that the modern state is conceived of as, "a function of society or a necessary evil for the sake of social freedom[.]"¹⁵³ Whereas politics is necessarily public, the modern conception of the political shifts the emphasis of politics from what is common and shared – public space – to what "cannot possibly be held in common by all."¹⁵⁴ By this Arendt means that the proper place of the subject as free individual has shifted from public intersubjectivity to the private sphere. Once freedom is premised upon the private, atomic self, freedom and politics are understood as in opposition to one another: politics threatens the freedom of the individual, so understood, as an incursion of the public into private life. To explain this development, the state of affairs against which Arendt develops a theory of the political, we will trace the "rise of the social" as opposed to the public and, from there, the relocation of freedom to the private sphere.

Arendt's diagnosis of modernity's mischaracterization of the political hangs on the contention that, "the purpose of government, to whose field of activity politics is from here on assigned, is to protect the free productivity of the society and the security of the individual in his

¹⁵³ Ibid., 142.

¹⁵⁴ Ibid.

private life.”¹⁵⁵ Like the family, “society” emphasizes an essential likeness between its member. Social bodies hang together by “unit[ing] extreme individual differences,” through the creation of a common identity.¹⁵⁶ Individuals do not encounter each other through actively and publicly announcing “this is who I am.” Rather, “In this form of organization, any original differentiation is effectively eradicated,” through conceiving of a public as the space of overlapping commonalities – kinship bonds, national identity.¹⁵⁷ While Arendtian politics is possible only through the public emphasis of plurality and difference, the kinship-family model of politics stresses sameness and cohesion. For Arendt, this results not only in the occlusion of human plurality,¹⁵⁸ but also in the relinquishment of the public world, of politics and political activity, itself.

Arendt sees that once the public is conceived of through the image of the family we come to understand our relations to each other and to politics as “a household.” Government becomes the metaphorical head of the household, the primary function of which is to ensure the sustenance and protection of the family group; or, as Arendt puts it, “we see the body of peoples and political communities in the image of a family whose everyday affairs have to be taken care of by a gigantic, nation-wide administration of housekeeping.”¹⁵⁹

Arendt’s point is that the rise of the social and of the pseudo-political administrative paradigm the private and public realms blur together such that there is no longer a distinction between them.¹⁶⁰ Like the private sphere and the household, Arendt claims the social takes the meeting of needs and desires as its end. Consequently, where there once was a public space of

¹⁵⁵ Ibid.

¹⁵⁶ Ibid., 93-4.

¹⁵⁷ Ibid., 94.

¹⁵⁸ Ibid.

¹⁵⁹ Arendt, *The Human Condition*, 28.

¹⁶⁰ Ibid., 33.

differentiation through public action and speech, themselves constituting and maintaining freedom, the social paradigm constitutes the individual not through distinction and interrelation, but through a movement into the reclusive privacy of their individual ends. No more is needed from “politics” in this formulation than the ongoing administration of governance toward the end of securing and enforcing distances between individuals.

Whereas freedom and politics ought to be conceived of as “two sides of the same matter,” when freedom is reconceived as one’s freedom from politics the two are kept strictly separate. Politics is a threat to freedom when freedom is defined simply as non-interference, or, as the aspects of one’s life which cannot be infringed upon by what is external to the subject’s private life and interests. Arendt outlines the problem in explaining, “We [moderns] are inclined to believe that freedom begins where politics ends.”¹⁶¹ What Arendt has in mind here is the misappropriation of the political as the wholly social or communal interests of society as a household administratively overseen by a centralized household head. By this we can take her to mean the administrative bureaucracy of contemporary states, especially the totalitarian states of the twentieth century. If the political is coopted by top-down administration conducted by a faceless and unseen centralized administration, then subjects encounter it as an externality holding power over action. As such, the political is constitutively no longer a space of action and interaction between subjects; it is the execution of mechanized administrative tasks by faceless and nameless institutions.

Arendt points to the prevalence of a (classical) liberal conception of minimal state to explicate this point. She asks rhetorically:

“Was not the liberal credo, ‘The less politics the more freedom,’ right after all? Is it not true that the smaller the space occupied by the political, the larger the

¹⁶¹ Hannah Arendt, *Between Past and Future*, (New York: Penguin Books, 1954), 148.

domain of freedom? [Do] we not rightly measure the extent of freedom in any given community by the free scope it grants to apparently nonpolitical activities, free economic enterprise or freedom of teaching, of religion, of cultural and intellectual activities? Is it not true, as we all somehow believe, that politics is compatible with freedom only because and insofar as it guarantees a possible freedom from politics?”¹⁶²

The modern definition of freedom as “freedoms from” politics displaces the space of freedom into the strictly private affairs of individuals. Crucially, this is, at the same time, to push all differences between individuals – everything they do not share in common – into exclusively private spaces. What politics could be for Arendt is the proliferation and expansion of politics – free action explicitly announcing and demonstrating distinction and plurality between subjects. Contemporary society, however, redefines the political as what infringes upon difference and pluralism rather than as the site of its existence, reducing freedom to life “outside the political realm.”¹⁶³ Formulations of liberal, negative freedom result in the depoliticization of politics, the removal of public action in a shared world from political life. The political realm becomes solely the realm of state governance, rather than a space of intersubjective interaction. This, at best, represents the willful surrender of the public realm and of action and, therefore, of any sense of the self as political, an agent capable of shaping the world and its political-institutional architecture.

Social life, for Arendt, is “automatic behavior” instead of action. This is so because when politics is centralized administration rather than active engagement between individuals in a public space which itself shapes the content of the political, indifference is the condition of

¹⁶² Ibid.

¹⁶³ Ibid.

one's minimal public life. Individuals fail to conceive of the political as an essential aspect of free selfhood. Subjective projects focus on patterned behavior aimed at meeting individual, especially economic, needs and desires. Arendt emphasizes this because behavioral fulfillment of private desires is the opposite of action.¹⁶⁴ In sum, the removal of politics from subjective life results in uniformity and overinvestment in private aims, leaving the public space of the political empty and unrealized. For Arendt, the “catastrophic” consequence of this the loss of action, the disappearance of plurality, and – behind both of these – a constitutive “passivity” to all things political.¹⁶⁵ Social life is disengagement from the political; within society there is no subject. All are, rather, behaviorally normalized by a faceless and distinctionless “rule of nobody.”

If the social is the undisrupted automaticity of the status quo resulting from the indifference of pseudo-subjects, the reemergence of the political and the free subject arrives through active contestation of this indifference and inevitability. Contestation takes place on two levels, one following from the other as its consequence: the revival of thinking as a critical intervention in the historical present and, from this, a rejuvenation of the public sphere through action based on the judgments of the thinking subject. Tying subjectivity and the political together, Arendt outlines an agonistic politics, i.e., an active contestational politics which intervenes in the normal flow of events in order to continually keep the political alive and to reinvent the world in the image of ever newly conceived possibilities.

Imagining the reemergence of the political, Arendt states, “[Freedom] develops fully only when action has created its own worldly space where it can come out of hiding, as it were, and make its appearance.”¹⁶⁶ A revival of the political and the free subject from the petrification of social indifference and automaticity requires that subjects actively embody an eruption of

¹⁶⁴ Ibid., 43.

¹⁶⁵ Ibid., 322.

¹⁶⁶ Arendt, *Between Past and Future*, 167.

freedom as action, which itself reopens and recreates public political space. Yet, in order to break with the unquestioned automaticity of social life, Arendt sees that it cannot be merely any form of activity through which the political is revived. Politics breaks the hold of the social and the repetition of the present status quo only when it is reflective and, thereby, capable of interrupting the inevitability of normalized behavior. With the retrieval of the thinking, active subject comes the recovery of natality.

In contrast to the unreflective and repetitive behavior of the social, Arendt tells us that, “thinking’s chief characteristic is that it interrupts all doing, all ordinary activities no matter what they happen to be.”¹⁶⁷ Thinking is principally a disruption of behavior, meaning critical reflection inevitably halts the entrenched behavior and practices of the present. Active thinking is capable of interrupting the historical present because, “thinking always deals with objects that are absent, removed from direct sense perception...[W]hen I am thinking I move outside the world of appearances[.]”¹⁶⁸ Arendtian thinking takes place in the subjunctive. Reflecting on the “world of appearances” – the present historical moment and its circumstances - is always imaging what might be other than the present. As the faculty allowing subjects to conceive of a future otherwise than the present, thinking invokes the human potential for creating something distinctly unprecedented and unique. For this reason, Arendt characterizes thinking as “mov[ing] into a different world.”¹⁶⁹ Regarding politics, we can describe thinking as beginning from the present state of things – social life in Arendt’s sense – and reconceive a world shaped not in the image of normalization, but by the possibility inherent to freedom and the actions capable of bringing such a world into existence.

¹⁶⁷ Hannah Arendt, *Responsibility and Judgment*, (New York: Schocken Books, 2003), 164.

¹⁶⁸ *Ibid.*, 166.

¹⁶⁹ *Ibid.*, 165.

It is in this sense that Arendt explains that thinking is “dangerous” to the present.¹⁷⁰ In explaining thinking as dangerous Arendt is signaling that thinking is ever “out of order.” If thinking is always thinking of the world other than and beyond the present situation, of things possible but not yet realized, then it cannot but disrupt the normal flow of events. Hence, “the moment we start thinking...we stop everything else[.]”¹⁷¹ Thought calls practice into question, makes it reflective by ceasing the repetition of unreflective behavior.

As constitutively anticipatory, thinking, “undoes every morning what it had finished the night before.”¹⁷² Thought, insofar as one is thinking, is unceasingly forward moving in practice. Contemplation of possible futures,

“relentlessly dissolves and examines anew all accepted doctrines and rules, [it] can at every moment turn against itself, as it were and produce a reversal of the old values and declare these as ‘new values.’”¹⁷³

For Arendt, thinking is the activity of the subject reflectively engaging her world and contemplating possibilities for the reevaluation of prevailing values and how, as well as whether they ought to be, reconceived and revolutionized. We need not read a relativism into this formulation of thinking. Rather, as we saw above the aim toward which Arendt orients creative and transformative potential is an expansion of freedom and plurality. In sum, Arendtian thinking springboards off of the present state of things to inventively conceive of possible modes of action toward the proliferation of freedom as the realization of potential in creative action and equality as the magnification of idiosyncratic self-articulations and their recognition within public space.

¹⁷⁰ Ibid., 177.

¹⁷¹ Ibid., 165.

¹⁷² Ibid., 166.

¹⁷³ Ibid., 177.

Thinking, so construed, is active and critical reflection upon the present, toward a possible future. In political terms, thinking is the reflective catalyst for the realization of greater spaces of freedom and equality amongst political subjects. It is also, then, the critical foundation for the creation of public space, informed by the normative injunction that the public ought to be a space of freedom for, and equality between, subjects. As noted above, Arendt intends action to be maximally public; as the locus for such action, thinking, then, aims toward maximal freedom. As reflection upon the values of the present and their worldly manifestations, thinking motivates the demand for forming the objective creations of the public world – our shared institutions and practices – such that they facilitate and promote this maximization of freedom.

Since it is always a reflection on counterfactual possibility and a potential for a world different from the present, thinking requires an intermediary capable of realizing itself in the present. Judgment is the mental faculty filling the gap between the present and thinking's anticipatory potential. Arendt explains that judgment is "the most political of man's mental abilities."¹⁷⁴ Judgment is the moment at which thinking turns itself upon the present moment and, rather than imagining potentials and new possibilities, looks to the "particular," immediate circumstances and makes a decision thereupon. Thinking and judgment are not identical faculties, then, since,

"Thinking deals with invisibles and with representations of things that are absent; judging always concerns particulars and things close at hand. But the two are interrelated in a way similar to the way consciousness and conscience are interrelated."¹⁷⁵

¹⁷⁴ Ibid., 188.

¹⁷⁵ Ibid., 189.

Judgment concerns itself with immediacy and the particular circumstances at hand. Invoking the relationship between consciousness and conscience illuminates the insight that judgment is a moment within the broader phenomenon of conscious thought. The thinking subject abstracts from the concrete circumstances and conceives of possible futures; the subject in the moment of judgment brings the hope and potential contained in anticipatory thought to bear on the world, as it is present to her, in the moment of judgment.

In fact, Arendt describes the faculty of judgment as the “political implication” of thinking.¹⁷⁶ As the political moment of thinking, judgment disrupts the unquestioned flow of behavior endemic to social life. Whereas social life is characterized by an overinvestment in private matters and a devaluation of public life to the point of conformism, Arendt says of judgment,

“At these moments, thinking ceases to be a marginal affair in political matters. When everybody is swept away unthinkingly by what everybody else does and believes in, those who think are drawn out of hiding because of their refusal to join,” the uncritical commitment to prevailing beliefs and patterns of behavior.¹⁷⁷

The faculty of judgment is what actively deploys the reevaluation of existing values and reflections on possible futures characteristic of thinking, turning them upon the present. One judges, for Arendt, when she examines the present consisting of its particular circumstances and decides “this is wrong” or “this ought to be different.”¹⁷⁸ While thinking itself is non-instrumental reflection, the byproduct of thinking is an intellectual intervention in the present

¹⁷⁶ Ibid., 188.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid., 189.

state of things, consisting of the invocation of one's conscience¹⁷⁹. The subject's conscience driven political judgments examine the existing state of freedom and seek its proliferation.

Finally, we arrive at the moment of action. Arendt explains that, "judging is the by-product of the liberating effect of thinking, realizes thinking, makes it manifest in the world of appearances, [a world] where I am never alone[.]"¹⁸⁰ Judgment as conscientious decision making regarding the present state of affairs is accompanied with the compulsion to manifest one's conscience in the world, the intermediary, shared space existing between individuals. In other words, when the subject acts on her political judgments she does so publically, i.e., (re)opens and maintains the existence of a shared public sphere wherein individuals make conscientious decisions and employ action as the exercise of their freedom. Thinking results in a return of the political, as an irruption of action within the normality and conformity of the social, by spawning practical judgments within the present, based on imagining how the world between individuals could be more free; judgment that "this ought to be different" is discharged in action embodying the subject's conscientious political decision. Action is the manifestation of freedom and the opening of a public, intersubjective space of deeds and words. Since thinking which does not cease or come to rest in the present state of things, judgment does not come to a final

¹⁷⁹ Seyla Benhabib claims that there is a phenomenology of judgment within Arendt's thought. This phenomenology shows judgment to be relevant to three domains: the assessment of morally relevant situations, the identification of correct actions, and the interpretation of the intentions of the actor. In each of these capacities, judgment requires the imagination, or the imaginative reflection we have located in thinking. Seyla Benhabib, "Judgment and the Moral Foundation of Politics in Arendt's Thought," *Political Theory* vol. 16, no. 1 (1988): 36. Benhabib, however, contends that Arendt, "radically separated moral considerations from political action," noting that in order to arrive at the moment of moral judgment in the formation of egalitarian political institutions, practices, and civic values, she must break with Arendt, while following her in spirit. Benhabib, "Judgment and the Moral Foundations of Politics in Arendt's Thought," 46. Yet, this break with Arendt appears an unnecessary step to achieving the bridge between ethics, judgment, and politics if we interpret Arendt as committing to an ethics of freedom as we have here. The normative demand for the realization and proliferation of freedom in the world spurs the imaginative reflection upon and critique of the existing world, and judgment motivates political action toward its realization.

¹⁸⁰ Arendt, *Responsibility and Judgment*, 189.

decision on “the good”¹⁸¹ – it calls for further reflection on greater possibilities for the realization of freedom. Free thinking and free action begin a feedback loop, each in turn calling for the continuation and expansion of the other, without end.

We noted above that we must return to Arendt’s conception of action in full in order to arrive at a final articulation of the political in itself. Action, as it flows from thinking and judgment, is the “central category of the political”¹⁸² because it is the medium through which the subject is able to interrupt and alter the movement of history – to effect change and construct the structure framework of political institutions. Subjects always stand in relation to history as “in the interval between past and future.”¹⁸³ This “broken middle” in which the subject encounters the world is the temporal place wherein natality is realized:

“[The subject’s] standpoint is not the present as we usually understand it but rather a gap in time which his constant fighting, his making a stand against past and future, keeps in existence...[I]t is this insertion – the beginning of a beginning...which splits up the time continuum into forces which...giv[e] them direction[.]”¹⁸⁴

Action inserts the subject into history in an unpredictable deed, the consequence of spontaneous initiative, bringing something new into the world. For Arendt, this creation alters the flow of history; it changes the world. The subject gives corporeality to human potential – natality – and her agency moves history forward in a direction heretofore uninitiated. In action she is the vehicle of the future and the engine of world-altering creativity.

¹⁸¹ Ibid., 188.

¹⁸² Arendt, *The Human Condition*, 9.

¹⁸³ Arendt, *Between Past and Future*, 10.

¹⁸⁴ Ibid.

Political action is that through which what would have proceeded automatically or could be predicted of the future is interrupted.¹⁸⁵ It is, then, the antithesis of social behavior. To speak of action less abstractly and to remove it from a strictly individualist framework (while acknowledging that it is the condition for the emergence of individual differentiation), it is the unpredictable enactment of a decision through a deed based on a “fundamental conviction.” Arendt calls this the “principle of action”: it is inspired and motivated by a fundamental conviction shared by a group of people acting in concert to realize it in public, political space.¹⁸⁶ Fundamental convictions behind political action are themselves contingent; a group may act in concert based on principles either estimable or vicious. However, if the nature of the political is the expansion of freedom, public space, and diversity, then Arendtian political agency is comprised of actions whose principles ought to aim at these core principles as the normative aims for the convictions behind political action (while conceding that the nature of the specific act itself remains contingent, may be mistaken, and will be determined by the particularity of the circumstances and their place in history).

Since all political action is public and the principle of action concerns shared fundamental convictions, the political is principally composed of interacting groups of individuals acting in concert and comprising a space for actionable contest between competing political goals¹⁸⁷. Groups in an agonistic political space exert what Arendt terms “power,” which

¹⁸⁵ Arendt, *On Violence*, 31.

¹⁸⁶ Arendt, *The Promise of Politics*, 194-5.

¹⁸⁷ On this point, Amy Allen interprets Arendt as offering a conception of solidarity. In Arendt she sees the interplay between commonality and difference that brings subjects together through finding the commonalities of the world and worldly experience contained within the radical uniqueness characteristic of humans as sites of natality. While Allen’s essay focuses primarily on the connotations of this account of solidarity for feminist politics, specifically as it mediates the tension between identity and non-identity politics, she is instructive in claiming that power, for Arendt, is located within these communities of action and is possible only so long as subjects come together in shared action toward common ends. Power is possible only so long as this solidarity of common action exists. Amy Allen, “Solidarity after Identify Politics: Hannah Arendt and the Power of Feminist Theory,” *Philosophy and Social Criticism* vol. 25, no. 1 (1999): 114.

she defines as, “the human ability not just to act but to act in concert...[I]t belongs to a group and remains in existence so long as the group keeps together.”¹⁸⁸ Power as a political category is the force carried by collective actors advocating political goals through public action, toward the proliferation of public freedom and plurality. Groups meeting in contest in the public sphere utilize action as collective actors, in deed and its accompanying discursive justification, struggle to expand the boundaries or limits of public space as a space of political action, as a medium for the expression of individual and political difference, and the space for articulating varying strategies for the expansion of freedom and maintenance of equality between differentiated individuals. Power is an end in itself, the unifying feature of an Arendtian theory of the political, bringing natality as creative potential for new beginnings, freedom, the individual, judgment, and collective political, public engagement together in the realization of a political act. It is the realization of the political in its full sense as political action aiming at possible “new realities” that “force open all limitations and cut across all boundaries” put in place by the historical present. Through politics, subjects transform the shared human world of institutions and practices, as well as express the ever present fact of human multiplicity and difference.

Importantly, Arendt positions power in opposition to “authority.” Unlike power, which is found in the collaborative action of political engagement, authority characterized by the compulsion to obey and requires “neither coercion or persuasion.”¹⁸⁹ Authority, then, stands in opposition to politics, and thus also to freedom because such compulsory obedience marks a return to the automaticity of the social.¹⁹⁰ Defined as such, authority is marked by obedience for obedience’s sake, or, to return to language evoked above, mere governance.

¹⁸⁸ Arendt, *On Violence*, 44.

¹⁸⁹ *Ibid.*, 45.

¹⁹⁰ It is not accidental that Arendt chooses as an example of authority the figure of the father, the head of the household, and his relationship to the child, which she employs when explaining the social.

In contradistinction to authority, that power resides at the heart of Arendtian politics calls not for governance but for a shared, contested, and ongoing activity of governing. Arendt states, “It is the people’s support that lends power to the institutions of a country...All political institutions are manifestations of and materializations of power; they petrify and decay as soon as the living power of the people ceases to uphold them.”¹⁹¹

Absent the ongoing engagement of political subjects with the institutions of public political life, power petrifies into mere authority. If this is the case, the life of political institutions is necessarily bounded to political life, itself made possible only in and through action. The power of political actors, collaborating in political practice in public, then, is the core of the very legitimacy of our shared institutions. The upshot here is that an Arendtian politics is, from the start, a participatory project of engagement with the institutions and practices of the present, propelled by the critical interrogation of thinking, motivated by a normative core of freedom and equality, determined by judgment and willed into being by the action of subjects sharing a common world. That action is the fulcrum of politics, and that the unpredictability and inventive creativity of natality is the characteristic feature of our capacity to act, instructs us that political life must be an ongoing process of revision and creation, an ongoing activity of preserving and augmenting spaces of freedom and the institutional structures necessary to guarantee it, and that we are politically free only insofar as our institutions are kept alive in this participatory project.

If power is the source of legitimation for political institutions, and power exists only insofar as it is embodied in the action and activity of political subjects, then an Arendtian conception of politics is marked by a constitutive instability. Rather, it is marked by an internal

¹⁹¹ Arendt, *On Violence*, 41.

tension between stability and instability and, while both are necessary, the flux of instability propels an ongoing transformation of the institutional architecture of the shared world.

Arendt herself is clear that the stable existence of positive law is integral to the possibility of freedom and the existence of a shared world. In fact, this is so precisely because of the fact of natality. She explains,

“Positive laws...are designed to erect boundaries and establish channels of communication between men whose community is continually endangered by the new men born into it. With each new birth, a new beginning is born into the world, a new world has potentially come into being. The stability of the laws corresponds to the constant motion of all human affairs...[Positive laws] guarantee the existence of a common world, the reality of some continuity which transcends the individual life span of each generation, absorbs all new origins and is nourished by them.”¹⁹²

Positive laws, as the legal and juridical framework of the political world, are principally necessary in order to ensure that, even within the flux and change of a world ever in change, the fundamental guarantee of freedom persists. In other words, stability in the existence of laws codifying and guaranteeing freedom and its attendant public rights ensures the existence of freedom and the persistence of a free public. This must be so for two reasons. First, for each new arrival into the world, the stability of positive law ensures that these lives too are free. Second, and perhaps more importantly, the fact of natality guarantees a world of flux and change – “a new world.” Stability of positive law ensure that, even as the political world is altered and

¹⁹² Hannah Arendt, *The Origins of Totalitarianism, New Edition* (Orlando: Harcourt, Inc., 1968), 465.

transformed, the condition of freedom persists, albeit in new permutations. Stability, then, is necessary as a normative baseline.¹⁹³

To contend, then, that political action and the power it makes possible takes the form of public contest and revisionary engagement with the institutions of the world is not to intend the negation of the existing political world or of the existence of a world of laws. Rather, the existing legal-judicial framework, the institutions making possible their creation, preservation and execution, indeed the state itself ought to endure as the scaffolding holding together our shared political life and the possibility of freedom, for all who are, and who will, be members of the polis.

Yet, absent action and engagement, what keeps the active power of political institutions from petrifying into mere authority and, by definition, constitute alteration and change, the legal-judicial institutions and structures of governance are mere artifacts. Key to the Arendtian conception of power is that the moment action recedes from engagement with the political world, the very framework thereof becomes mere stasis – the absence of action and, then, the absence of the power. Stasis connotes not stability, but permanence of the present, petrification of present political realities. By definition, however, in permanence there is no longer politics.

The primary contention here is that internal to an Arendtian conception of politics must be a constitutive instability. If action is the creation of something unprecedented, and if power derives from action in engagement and contention with the institutions and structures of the world, then those very institutions and structures of the state and its laws must themselves be living and vital. Vitality in this sense means that, through the hands and words of the body,

¹⁹³ It is worth noting that Arendt contends that rendering the political world unstable, absent its complimentary stability, is a tool of terror and totalitarianism. Instability alone creates a space where freedom can be torn down, a space of lawlessness, effectively replacing politics with force and creating conditions wherein there is no limiting boundary to what subjects as subject may be subjected. Ibid.

indeed bodies, politic, through critical judgment and willing, the future possibilities for the maximization of freedom remain an open, contested question and the state, the law, the rights derivative thereof, and the institutions upholding them remain ever subject to revision. By this we do not intend the increased efficiency of distant bureaucracies or the mere presence of a body of legislators. Rather, the spirit of Arendtian politics places the beating heart of political invention in the vocal body of the political subject as the site of instability, of contest, of the promise of a world other than the present, a world toward freedom. If action and freedom are, as we have seen, two sides of the same coin, then the freedom of the subject also represents the future of freedom. The instability brought on by this freedom is a source of augmentation and growth, an expansion and revision of the web of human relations, and, more pointedly, of the structural-institutional realization of freedom.

In sum, the relationship between the stability of law, juridical-political institutions, and the state and the instability of action takes place through the subject, indeed through subjects together in political space. Thinking and critique of the present spur imagination, and imagination of new political realities, new possibilities for freedom, motivate willing these possible worlds into being. Given the nature of natality, such imaginative possibilities for a free public world concern making possible ever new forms of self-expression and self-articulation, i.e., of assuring a public wherein new forms of life are possible and welcomed and where life is experienced as the freedom to announce “this is who I am” in ever unpredictable ways. Freedom, then, becomes the possibility of maximal multiplicity and difference in public, and power lends itself to the active affirmation and revision of law, the state, and political institutions – the shared world – such that the public world remains open and welcoming of these new potentialities and subjective expressions of freedom.

Furthermore, that the normative core of an Arendtian politics, so construed, is comprised of freedom and equal recognition of said freedom places it firmly within the purview of democracy. However, it likewise carries within it implicit critiques of various democratic forms. Firstly, aggregative forms of democracy centered upon the vote as the primary mode of democratic activity are insufficient for the realization of both action and of active power. This is especially so wherein the vote constitutes the mere expression of private interests, as it is best represented by a party platform. In Arendtian terms such aggregative models of political practice represent a retreat into the private sphere of personal interest and the abdication of political participation. Registering a preference in a single act of voting is insufficient for public action and, perhaps more importantly, constitutes the state as little more than a distant administrative body best approximating the private interests of a majority of the populace. In this sense, the mere presence of formal democratic guarantees and minimal political participation, while comprising necessary elements of freedom, are insufficient.

Given the primacy of speech for action, an Arendtian politics may better approximate deliberative democratic forms, especially returning to the idea of “persuasion” noted above in Arendt’s juxtaposition of power with authority. However, key here is the end toward which deliberation aims. While still political in kind, the mere presence of a deliberative culture wherein there is robust public debate over issues of governance is, in and of itself, not yet politics. Informal deliberation toward the end of an informed, spirited democratic public may be a public good, but it does not yet bring that speech to bear upon the structural-institutional apparatus of the public world.

Rather, in the Arendtian model it seems we actually see power most clearly when people take to the public square and articulate contests and demands and see those demands brought to

bear on the apparatus of the political world. If stability in the law and of the state must be kept open and unstable in order to avoid stasis, destabilization is the embodied and vocalized activity of being present to and in politics. In this sense, insofar as the present formulation of an Arendtian politics is a democratic one, it is not only concerned with freedom and equality before the law, albeit this is necessary as the constant stability of positive laws. Instead, it establishes the hierarchical primacy of the political subject actively within the law. The active political subject is the very foundation for the political world, its source of power, and its source of power and legitimation. As previously noted, the ongoing transformation of the political world and the ever presence of living possibility within the structural-political institutions of the world is not a call for change or contest merely for the sake of themselves. The normativity of freedom and of equal recognition of freedom comprises the ethical locus for the transformation of the public world toward the creation of codified political norms, fallibly and incompletely, making freedom and equality possible within public space.

Consequently, a politics of this form rethinks the position of priority within the citizen-state relationship. The state, its laws, and its institutions cannot occupy the position of primacy. Rather, if power derives from action, and if action is embodied only in the speech and activity of the subject, that subject must occupy the position of centrality within the political. Indeed, the political world itself is impossible without the action of subjects, creative activity in concert, the fashioning of such a world. We find, then, that this model of politics must be, first and foremost, participatory in kind. Power, then, funnels upward, from citizen to state, and does so in and only through the concrete presence of a polity in practice.

However, that freedom and action are constitutively synonymous for Arendt presents problems not only for the ethical thrust of political action, but for a politics premised upon

universal freedom and equality within the public. Knotted together, the limitations of the concept of action are also the limitations for freedom as the ethical motivation and engine for political activity. To this point the discussion has focused on the form of an Arendtian politics. Reflecting upon the matter of politics, specifically the limitations placed thereupon by the formal definition of the concept of action, and therefore freedom, the public, and politics, shows that the normativity of the political in Arendt produces self-undermining ramifications.

Illustrative of this problem is Arendt's contention that poverty, economic need and deprivation, is a phenomenon necessarily outside the boundaries of the political. For Arendt, poverty is not merely an issue caused by non-political mechanisms. Rather, any and all discussion of economic conditions, of the material conditions in which one's life is lived, is principally a-political and outside the boundaries of public, political concern¹⁹⁴.

Arendt takes aim at the French Revolution for making class and the economic conditions of life issues of political contest and structural change. Most importantly for our purposes, she states that treating issues of class and economics as public, political matters renders the public realm,

¹⁹⁴ Bonnie Honig attempts to alleviate this issue by reading Arendt against Arendt with regard to the public/private, political/social dichotomy. Honig claims, "Action is, after all, boundless, excessive, uncontrollable, unpredictable, and self-surprising. If action surprises its actors, why should it not also surprise Arendt, its author?" Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca: Cornell University Press, 1993), 119. Honig the disruption and unpredictability of the concept of action into Arendt's concept of the public, claiming that the boundlessness of action explodes the public/private distinction by politicizing new and unexpected terrain. She claims that, on Arendt's definition of action, this must be the case and, therefore, Arendt's non-negotiable distinction between public and private, the political and the social, cannot hold, on Arendt's own terms. Were our aim to break from Arendt's, quite explicit, account of politics and of the social, Honig's insistence that Arendt's public/private distinction cannot hold is a sympathetic position. However, if we remain within the purview of the position Arendt explicitly insists she is committed to, as is the task we have set out, Honig's insistence that the "surprise" contained within action must itself shock and transform the definition of action itself is significantly less convincing. This is so because the conceptual webbing of Arendt's thought is consistently framed through oppositional dichotomies, oppositions that function as definitive of the meaning of each disjunct. This is especially so with the public/private, political/social dichotomy, as Arendt explicitly positions action as an opposition to the behavior and instrumentality of the social and the rise of the social as the very loss of the capacity for action and, therefore, for the realization of natality and of freedom.

“overwhelmed by the cares and worries which actually belonged in the sphere of the household and which, even if they were permitted to enter the public realm, could not be solved by political means, since they were matters of administration, to be put into the hands of experts, rather than issues which could be settled by the twofold process of decision and persuasion.”¹⁹⁵

For Arendt, the economic conditions of life, and with them attendant concerns of class, stratification, indeed of dominance, are mere matters of the life process. They are matters of necessity, rather than of politics. If this is the case, then such concerns are, in Arendtian terms, private in principle. As private concerns, class, poverty, and economic relations are constitutively outside the purview of political action, of public word and deed. Following from this, then, concerns of this nature fall outside the scope of the ongoing practice of the political formation of the world outlined above. As apart from politics, Arendt sees that the moment such concerns enter into public discourse, into political contest and deliberation, constitutes an intrusion of apolitical phenomena into the public realm. For our purposes, it is most important to note that, for Arendt, this constitutes a degradation of the public sphere; indeed, as she puts it, when the concerns of the economic conditions of the poor enter political space, “this realm ha[s] indeed become ‘social.’”¹⁹⁶

The preservation of the public, then, requires the exclusion of the economic conditions of life from “decision and persuasion,” from political matters as such. Conceptually, one’s concerns regarding, indeed one’s experience of and within, the material economic conditions of life are not of public concern and ought to remain within their properly private realm. Concerns of this nature, then, also do not fall within the purview of action, as political practice, and,

¹⁹⁵ Hannah Arendt, *On Revolution* (New York: Penguin Books, 1965), 81.

¹⁹⁶ *Ibid.*

furthermore, are not considerations of freedom. These are the concerns merely of the individual, as private, within her private, individuated, space. Therefore, as a test case, we see that the conceptual definition of action, and the definitions of the public and of freedom which follow from it, categorically limit the scope of what counts as the matter and content of public activity. Since action conceptually begets freedom, and since freedom (and its equal recognition) comprises the normative core of an Arendtian politics, it follows that the boundaries of the political put in place by the concept of action are also the boundaries and limits of the normativity of Arendtian politics. In other words, if there is an ethical thrust toward the realization of freedom in an Arendtian politics, then the scope of what falls within the concern of such an ethics is limited by what is not conceptually considered a matter of freedom and the public. It is not only the case that freedom is not realized in the space of necessity and privacy, but, further, that anything pertaining to necessity is excluded from public space, and therefore from the scope of action and speech as politics.

Therefore, the matter and content of a politics premised on the ongoing development and revision of the political world excludes, is not motivated by or enacted toward, alteration of the material economic conditions in which life is lived. Despite existing at a structural level within the world, and despite affecting the lives lived within that world, they must remain beyond political activity. The structures of economic life exist outside the political scope of the state and the institutions of the public, political world and, more importantly, outside the scope of the speech and action of political actors, as political.

The strict bifurcation of freedom from necessity produces an internal conflict with the normative import of freedom as the motivating concept for an Arendtian politics. Limiting the matters of freedom also limits the matters of free self-articulation within the public. If natality is

the condition of unpredictable self-expression amongst others, realized in public speech and action, the conceptual boundaries of freedom limit the possible content one may express as her story, her experience within and of the world, within public. Returning to the issue of class, poverty, and economic condition, how these structural elements of the world affect one's experience is constitutively beyond the parameters of public discourse, indeed of public concern. As matters outside of politics, these are also matters over which the subject must remain publically silent. One's ability to speak to her experience and to contribute to the web of human relations in public through speech regarding how this web, the shared world, shapes, constitutes, limits, or privileges her experience given the fact of material structures existing within that web is determinatively limited from the start. Given that freedom is realized in action, and action is the expression of natality, natality – the unpredictability and unbounded capacity for self-articulation – is always already bounded and limited in scope. As political, subjects may speak freely and act in public toward the proliferation of freedom, so long as the matters of their lives, indeed how those lives are affected by the shared world, remain within the predetermined bounds. Furthermore, it is not irrelevant to note that economic deprivation requires that more of one's time is spent principally in labor aimed at securing the means of survival, rather than in action in public space. The very matters and concerns skimmed out of public action may, then, constitute the very condition upon which one can enter the public sphere in the first place. In sum, the growth of freedom, what guides politics in action, is internally limited such that were one to experience herself as unfree, to experience her freedom as limited by the material facts of her life, this is a matter over which she ought to remain silent in public.

Most at stake here is that the concept of freedom, which is the normative core of an Arendtian politics, is self-undermining insofar as its conceptual boundaries render some unfree

to express their freedom in public. Importantly, this is not a tacit endorsement of absolute or unconditioned freedom, neither of which is supported by Arendtian concepts. Rather, thinking through the issue of poverty as a test case shows the limitations of Arendtian freedom and its politics insofar as it conceptually precludes the possibility of subjects expressing the affects of the structures of the shared world on their lives as a matter of political concern. This produces a blind spot to the emergence of new expressions of the experience of unfreedom, of marginalization, and of public occlusion.

Arendt's concepts of natality, action, freedom, and the public come together to produce a conception of politics as active power and a continual process of reinventing the political world. It is predicated upon voices of political actors in public space bringing judgment to bear upon the existing state of the state and its institutions, toward new and unprecedented possibilities for the realization of freedom. However, given that the Arendtian concept of action is the conceptual fulcrum for such a politics, and given that the nature of the public following from this concept excludes materially existing structures from its purview, the prioritization of action, and the normativity of freedom and equality derivative of it, within this theory of politics results, in fact, in exclusion of and silence from marginalized voices within the polis. It is, perhaps, these very voices which would be most instructive as to where the public world has failed at creating the conditions for freedom. Despite itself, politics built upon the Arendtian concepts above cannot address, cannot welcome or hear, voices expressing forms of marginalization pertaining to or intersecting with necessity. Consequently, it lacks the conceptual apparatus for bringing these voices into the public and leaves the freedom affecting structures of marginalization in a state of stasis and permanence. Therefore, as Arendtian politics places action at its core, not only in practice but as the concept from which its normativity is derived, it both creates silences and

conceptually preempts the formulation and expression of critical interventions into the present conditions under which subjects live, denying itself the tools both for redressing harms caused by necessity and for normatively motivating such an intervention in the first place.

PART III

BETWEEN ETHICS AND POLITICS

CHAPTER V

LEVINAS: ETHICS, JUSTICE, POLITICS

The preceding chapters have traced how, for Kant, Rawls, Marx, and Arendt, the formulation of the subject led to the relationship between ethics and politics. In each case the account of the subject has resulted in the priority of ethics or politics over its complimentary concept. Likewise, in each case we have argued that this priority has resulted in internal conceptual tensions for each thinker, even to the point where these accounts of subjectivity, ethics, and politics produce internally self-undermining results.

We turn to Levinas because he offers an alternative formulation of the relationship between ethics and politics. To be sure, as we will see, Levinas begins at the ethical and, as is argued, ethics guides politics. However, what sets Levinas's apart is that, while at the conceptual level ethics acts as both a critique of and a demand upon the political, ethics and politics, he claims, are each constitutively necessary for the possibility of its other. Ethics is necessary for politics, and politics is necessary for ethics. Subjectivity is neither principally ethical nor political, where one would follow derivatively from the other. It is, instead, shaped by the burdens of both, equally, from the start. The subject, then, stands between ethics and politics.

This relationship is a conflicted one, yet it is not viciously so. Rather, the tension between the two is a productive one, as the subject is burdened by the responsibility to act for both. The subject is, then, the medium for the realized relationship between ethics and politics. This chapter offers an interpretation of the subject as the site between ethics and politics, and in doing so also claims that active political struggle is internal to Levinas's philosophy.

Amongst radical political thinkers and theorists of liberation, Levinas's conception of justice has been charged with being insufficient for providing an account of politics— the judgment, decision making, and, especially, the activity of political conflict. Without doing so, Levinas cannot offer us the resources for an emancipatory politics. What worries radical theorists are two interrelated concerns. First, it is charged that Levinas cannot account for the moment of political decision and the subsequent implementation of the decision or judgment in transformative political activity. Following from this assertion, Levinas provides, at worst, a concept of justice incapable of being reconciled with his ethics and, at best, a powerful yet purely negative critique of justice.

Beginning with the first of these claims, Chantal Mouffe characterizes Levinas's treatment of justice, as well as Levinasian reconstructions thereof, as an "ethical-particularistic approach." Missing from this approach, she explains, is, "a proper reflection on the moment of 'decision' which characterizes the field of politics."¹⁹⁷ For Mouffe, if we are to speak of justice at all, we must attend to how justice is practically wrought within the political sphere. Levinas cannot, on her view, provide these resources because the activity of political confrontation required for transformative politics is necessarily antagonistic, or, as she puts it "the dimension of the political."¹⁹⁸ Antagonistic political confrontation necessarily entails "force and violence that can never be eliminated;" the ethical paradigm from which Levinas approaches justice cannot embrace the violence of political contestation without contradiction.¹⁹⁹

¹⁹⁷ Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2005), 130.

¹⁹⁸ Chantal Mouffe, "Deconstruction, Pragmatism and the Politics of Democracy," in *Deconstruction and Pragmatism*, ed. Chantal Mouffe (New York: Routledge, 1996), 8.

¹⁹⁹ Mouffe, *The Democratic Paradox*, 130.

While Mouffe quickly moves on from this contention, Erica Weitzman further develops this line of critique. Political conflict and antagonism require the demarcation of adversaries and allies. In order for Levinas to account for such divisions he would have to embrace the Schmittian dichotomy of “friend and enemy.”²⁰⁰ Doing so would be self-undermining for Levinas, since this dichotomous antagonism requires the endorsement and enactment of an us/them binary. In doing so, and this is a move Weitzman sees Levinas making in his unfortunate remarks regarding the massacres at Sabra and Shatila, Levinas’s “other” cannot, in fact, be absolutely other, the site of alterity commanding responsibility. Weitzman claims that this is the case because by incorporating the dichotomous nature of antagonistic contestation Levinasian justice would amount, in fact, to a moment of closure, rather than openness to singularity and difference. As the lines of opposition are drawn, responsibility, commitment, and solidarity is provided only to those standing as a member of a “we,” those who are our “neighbors.” Those with whom “we” are in opposition become “enemies” exactly by virtue of their “otherness,” their status as “non-same.”²⁰¹ In establishing who and what are “our” political opponents we, at the same time, create a closed unit of “sameness” and “consensus,” as well as an “other” which has now become an enemy with whom we are in conflict.²⁰² Consequently, either Levinasian justice cannot account for this requisite element of political contestation, or despite itself it must justify the negation of the non-same.

Therefore, if it is to keep with ethics and the alterity of the other, Levinasian justice cannot articulate a mode of political activity capable of bringing politics, concretely, into action.

²⁰⁰ Erica Weitzman, “Necessary Interruption: Traces of the Political in Levinas,” *Theory and Event* vol. 11, issue 2 (2008), http://muse.jhu.edu/journals/theory_and_event/v011/11.2.weitzman.html [accessed April, 15 2011]. Likewise, Mouffe herself relies on Schmitt to explain the constitutive antagonism of the political sphere. See, for example, *The Democratic Paradox*, ch. 2.

²⁰¹ Weitzman, “Necessary Interruption: Traces of the Political in Levinas,” http://muse.jhu.edu/journals/theory_and_event/v011/11.2.weitzman.html [accessed April, 15 2011].

²⁰² Ibid.

Subsequently, we arrive at the second charge facing Levinas. Without the capacity to render the oppositional judgments producing the decision to act against the target of political resistance, Levinas cannot provide positive resources for theorizing a radical politics. Consequently, Levinasian justice would, it seems, be confined to the institutional and legislative operations of the liberal state. For this reason, concerning an emancipatory political project, Enrique Dussel argues that Levinas provides only an “anti-politics” or a “sceptical deconstructive negativity.”

He explains,

“Levinas brilliantly reveals the violent trap intrinsic to politics when it becomes totality that negates the Other as other; in other words, he philosophizes about anti-politics of the Totality, yet he says nothing about a politics of liberation...The poor provokes, but in the end, he stays poor forever.”²⁰³

Levinas’s discussion of justice can only provide a critique of the state and its institutions as a totality. Regarding a positive political project “oriented to constructive and innovative liberation,”²⁰⁴ Levinas, Dussel claims, is silent. In short, Levinas has no conception of politics, only a negative and opaque warning about the violence of political totalitarianism. Should these respective criticisms of Levinas hold it would seem politics is an issue over which Levinas must pass in silence, lest he either betray his ethics or offer little more than an inadequate, purely critical, conceptualization of justice.

This chapter aims to defend Levinas against these dual charges and argues that an attentive eye uncovers a robust conception of politics and political struggle without falling into either of the pitfalls discussed here. It, furthermore, shows that this conclusion is established

²⁰³ Enrique Dussel, “‘The Politics’ by Levinas: Toward a ‘Critical’ Political Philosophy,” in *Difficult Justice: Commentaries on Levinas and Politics*, ed. Asher Horowitz and Gad Horowitz (Toronto: University of Toronto Press, 2005), 81.

²⁰⁴ *Ibid.*

through the relationship between ethics, justice, and politics. In order to do so, we will proceed through three discussions. Essential is disentangling “politics” from Levinas’s invocation of the term “justice.” First, we will see that justice is a multifaceted term as Levinas employs it, at times representing the workings of the state and its institutions to ensure formal equality for all subject to it and at others evoking a more rich meaning tied deeply to the infinite responsibility of ethics and to the command of the other. We refer to these senses of justice as “institutional” and “ethical” justice respectively. Both forms of justice are necessary on Levinas’s account, yet it is the ethical connotation which paves the way to a Levinasian politics. To show this, we will focus on the differing temporalities Levinas attributes to institutional and ethical justice. The diachronic time of ethical justice opens the subject to the possibility for an ethically utopian form of justice lying infinitely out of reach. It breaks with the synchronic historical time of institutional justice, exposing what more could be done, demanding a “better justice.” Next, we look to the body as the medium through which responsibility, the historical present, and the messianic future of ethical justice are united. Embodied political actors take up opposition to the prevailing material conditions of society generative of oppression and suffering, grasping at the trace of a futural ethical justice. From here we tie the priority of the body to Levinas’s conception of “work.” Work provides an intermediary concept through which the tensions between institutional justice and ethical justice are mediated. It is, necessarily, the activity of embodied giving – action – for the realization of a future greater than the present and beyond the subject’s time. Work represents the activity of political contestation, which is the investiture of the subject in the struggle against the failures of justice in the present. Through this movement we find that Levinas can indeed provide an account of political judgment, strategy, implementation, and contest which seeks to overturn the present historical moment for an ethical

future rather than establishing a friend/enemy dichotomy, and which in fact provides an impetus for a positive and constructive political labor.

Understanding Levinasian justice requires demarcating two opposed, yet correlational, forms of justice. Conceptually, justice is comprised of a duality between what we will here call institutional justice and ethical justice.²⁰⁵ Levinas maintains that justice²⁰⁶ and ethics are cotemporaneous: “they are inseparable and simultaneous.”²⁰⁷ Levinas speaks of justice as the sphere of reciprocity, symmetry, systematization and the state. For clarity, let us take a moment to track how he arrives here. The ethical relation, for Levinas is one of “substitution”: the subject becomes subject only under the subjection of a singular other beyond thematization. Subjectivity is, then, constituted in the accusative; to be oneself is to be responsible for the other, her suffering, for the violence the self could bring upon her – to justify one’s own place under the sun.²⁰⁸ Under accusation, the subject is sensibly exposed to the affective signification of the other’s “animate body,” and affected as such is commanded to give to the other, care for the other, even to the point of suffering so that the other does not.²⁰⁹ Ethics is a relation to a being standing before the subject both immediately and across an abyssal distance at once. It is the

²⁰⁵ The terms “formal justice” and “ethical justice” are also employed by Victoria Tahmasebi in a similar discussion of the split nature of Levinas’s conception of justice and its relation to ethics found in “Does Levinas Justify or Transcend Liberalism? Levinas on Human Liberation,” *Philosophy and Social Criticism* 36, no. 5 (2010): 523-544. I prefer the term “institutional justice” because it locates the site of justice’s formal guarantees within concrete and agential institutions and states. Tahmasebi’s article is a cogent reading of the interwinement of justice and ethics in Levinas, and the present discussion is in proximity with it. While our conclusions are in large part in agreement, the present argument will differ in that it will place a focus on the multidimensional temporality at work in the distinction between formal and informal justice. As will be shown, formal justice not only requires interruption from ethics, producing a distinct concept of “ethical justice,” but in order to understand ethical justice we cannot separate it from the diachronic temporality of ethics which opens the subject up to a messianic and futural utopian ideal. Ethical justice responds to formal justice in the name of the other who continues to suffer, but also does so as part of a movement following the trace of a perfectly just future, itself always remaining out of reach.

²⁰⁶ I return to the term “justice” here because, as I will argue below, “justice,” “the political,” and “politics” in Levinas are not necessarily interchangeable terms. While Levinas does at times use the terms equivocally, I will argue that “politics” is a medium for the embodiment of justice and that justice and politics are not identical.

²⁰⁷ Emmanuel Levinas, *Entre Nous: Thinking-of-the-Other*, trans. Michael B. Smith and Barbara Harshav (New York: Columbia University Press, 1998), 107.

²⁰⁸ Emmanuel Levinas, *Otherwise than Being, or Beyond Essence*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1981), 53.

²⁰⁹ *Ibid.*, 71.

coring out of one's own intentions, oneself, becoming a "reverse *conatus*" in "taking care of the other's needs."²¹⁰ In becoming for-the-other, responsibility is infinite, meaning, "The more I answer the more I am responsible,"²¹¹ as the relation with the other "show[s] me ever new resources."²¹² She continues to have demands, to corporeally express needs, and I must continue to respond. Ethics is excessive nonreciprocal responsibility for a singular other wholly consuming the subject and her efforts in giving.

The other does not get the only word, however. The ethical encounter is never outside of sociality - a multiplicity of others who face me no less than the one. "It is not that there would first be the face, and then the being it manifests or expresses would concern himself with justice; the epiphany of the face qua face opens humanity," Levinas tells us, and therefore, "The third party looks at me in the eyes of the Other."²¹³ Hence the need for justice. For Levinas, "The relationship with the third party is an incessant correction of the asymmetry of proximity in which the face is looked at. There is weighing, thought, objectification,"²¹⁴ and further, "Justice requires the contemporaneousness of representation[.]"²¹⁵ That the third is also present demands provisions be taken to ensure that all are accounted for, that the needs of all are met. Beyond the opacity of Levinas's language, the presence of the third is what commands that laws be written and codified (unlike the uncodifiable normativity of the ethical relation), that a state exists to provide for the many, that individuals are afforded rights and legal protections, that there are economic provisions to meet the needs of all, that there is bureaucracy to implement these necessities. The state and its institutions guarantee some modicum of equality for all. This is

²¹⁰ Ibid., 70, 74.

²¹¹ Ibid., 93.

²¹² Emmanuel Levinas, *Humanism of the Other*, trans. Nidra Poller (Chicago: University of Illinois Press, 2003), 30.

²¹³ Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1969), 213.

²¹⁴ Levinas, *Otherwise than Being*, 158.

²¹⁵ Ibid., 159.

institutional justice. Beneath it, the third, the many others, are abstract, interchangeable, numerical representations of formal equality comprised of legal rights and guarantees.

Still, we must remember, “ethics is first philosophy.” Levinas is steadfast in his assertion that the other is non-thematizable, indeed that the other breaks the synchrony of thematizing consciousness and is, always, an interruption incapable of being contained by concepts. The other is not identical. Having now ventured into the realm precisely of thematization and identity – the institutional justice of the state – the other is stripped of her alterity. She is but one among many. Justice is necessary, but it is also violent, reducing the other to the fungible representative of a category – citizen or individual rights holder, for example. Occluding the singular alterity of the other betrays ethics, extirpates otherness.

Furthermore, the state cannot encounter or be held hostage by the singular other with her specific and idiosyncratic needs or forms of suffering, institutional justice, by its very constitution, is pocked with blind-spots. In tending to all, the state fails to see those who slip beneath its cracks, who it fails, who continue to suffer beyond and in excess of the legal protections it provides. State apparatuses can guarantee abstract equality. They cannot, on the other hand, rectify the trauma lived in and through the bodies of those it passes over or excludes, intentionally or otherwise. The execution of law, economy, and social services plagued by its own insufficient capacity to countenance the suffering of those blanketed by it.

By reducing alterity to generality and in failing to uncover the ones it leaves behind the state and its institutions risk, should they find completion in formal justice alone, becoming not the medium for the administration of justice that rectifies the closed ethical relation, but a site of domination. Herein lies the threat of institutional justice: when the power of the state is left uninterrupted, when its edicts crystallize into an unimpeachable Law, when it is not reminded

that its totality is never all encompassing or threatened by the “beyond” announced in the other’s alterity, what would be justice devolves into totalitarianism. The institutional justice comprised of government, economy, and the various structures of society called for by the presence of the third, as they exist in the present, cannot, for these reasons, constitute the achievement of justice for Levinas, lest we lose the force of his ethical insight altogether. The persistence of the other and of ethics complicates justice.

While formal justice is occlusive of alterity, the other remains an interruption of order and the state: “Politics must be able in fact always to be checked and criticized starting from the ethical.”²¹⁶ Rising together out of the contradiction between the multiplicity of the social word and the closure of the ethical relation, justice and ethics betray one another. Importantly, the proximal locatedness to the other exposes the subject to the very gaps left by the institutions of justice. As Levinas puts it, “There are cruelties which are terrible because they proceed from the necessity of the reasonable Order. There are, if you like, the tears that a civil servant cannot see: the tears of the Other.”²¹⁷ Crucial is that the subject, through ethics, is the “check” on justice mentioned here by Levinas. Ethical justice is, then, critical engagement with the institutions of institutional justice and the state, emanating from the subject in response to those who suffer and whose rights have not been fulfilled. In short, regarding justice, “nothing is outside of the control of the responsibility of the one for the other.”²¹⁸ Justice is ethical only through the intervention of the other, of ethics.

²¹⁶ Emmanuel Levinas, *Ethics and Infinity: Conversations with Philippe Nemo*, trans. Richard A. Cohen (Pittsburgh: Duquesne University Press, 1985), 83. Note again Levinas’s ambiguous use of the term “politics.” This is here interpreted as referring to justice generally. That ethics informs *politics*, a term to which we will shortly return, will also be shown.

²¹⁷ Emmanuel Levinas, “Transcendence and Height,” in *Basic Philosophical Writings*, ed. Adriaan Peperzak, Simon Critchley, and Robert Bernasconi (Bloomington: University of Indiana Press, 2008), 23.

²¹⁸ Levinas, *Otherwise than Being*, 159.

Understanding the depth of the laceration ethical justice inflicts upon the stability of institutional justice requires us to examine the temporal structure of each.

Concerning justice, Levinas says,

“[T]he contemporaneousness of the multiple is tied about the diachrony of the two: justice remains justice only in a society where there is no distinction between those close and those far off, but in which there also remains the impossibility of passing by the closest.”²¹⁹

Note that justice for the many is “tied” to the ethical relation and the diachronic temporality in which ethics takes place. Institutional justice takes place in “being” for Levinas. The institutions of justice exist and function within the present and synchronic historical time. Synchronic time is a closed system: it moves forward through history without disturbance. The institutions of justice exist within the present and mechanistically execute their functions onward into time. The temporal diachrony characteristic of ethics breaks with the flow of being and the present; it is a multidirectional and interruptive temporality. To explain: “the form of responsibility for another, is bound to an irrecuperable, unrepresentable past, temporalizing according to a time with separate epochs, in a diachrony.”²²⁰ Essential here is that ethics erupts out of the synchrony of historical time and the time of consciousness, exposing the subject to an “immemorial past” as well opening a vision of a future beyond the present. The injustices of the social world preceded any of the subject’s volitions, even her very being. It is, fundamentally, the intrusion of a responsibility for a past in which she took no part. Responsibility, then, precedes being, synchronic time, presence.

²¹⁹ Ibid.

²²⁰ Ibid., 47.

More significant for our purposes is the futural epoch brought to bear on the subject through the transcendent element of diachrony. No less does this split temporality call forth a past issuing responsibility than does it transcend the synchrony of being and history itself, not merely intimating at a possible future but commanding that this future be an ethical one – indeed, a more ethical one. Speaking of the ethical relation, Levinas tells us that as the other signifies in this diachronic time, she leaves but a “trace” of her having been in proximity with the subject. Said otherwise, one’s response to the other is always too late; the other has always slipped away into a future beyond the subject’s present. This in part accounts for the infinity of responsibility. The other is never present in being, but a command going forth like a specter into a future to which one can never catch up.²²¹ Tying the multiple epochs of diachrony together, Levinas summarizes:

“The subjectivity of the subject is vulnerability, exposure to affection, sensibility, a passivity more passive still than any passivity, an irrecuperable time, an unassemblable diachrony of patience, an exposedness always to be exposed the more [.]”²²²

The subject is bound to the present – to locatedness in being – within her corporeality, yet the other disrupts her time, overflowing presence with a responsibility echoing from a past beyond the self’s time and issuing an infinite projection into an unceasingly ethical future of giving and response, of going toward the unreachable other always beyond one’s present.

If institutional justice is bound to “the diachrony of the two,” Levinas is telling us that ethics, through the subject, opens institutional justice itself to the multiple epochs of diachrony. Each epoch – past and future – issues a command. Therefore, against institutional justice are

²²¹ Ibid., 88.

²²² Ibid., 50.

leveled the imperatives of ethical responsibility and of a more just, and thereby more ethical, future. Remember that justice demands there is “no difference between those close and far.” From the demands of ethics, we can interpret this phrase not as advocating formal equality alone, but as a hyperbolic demand that, if justice is ever to be fulfilled, it must be an ever ongoing interruption of itself ceaselessly under revision toward a possible world where no one suffers, where there exists no material deprivation, no oppression, no marginalization, where no one is forgotten. Ethical justice is not concretion; it does not take place in our time, presence. Rather, it is an absolute transcendence, a utopian futurity refusing ever to halt in the presence of being, of actually existing formal institutions of justice. As Levinas puts it, ethical justice is, “A remarkable utopia of the good or the secret of its beyond. Utopia, transcendence.”²²³ A utopia of the good is one wherein justice and ethics could be perfectly aligned. It is also ever a secret, ever out of reach. In sum, as the diachrony of ethics interrupts the formality of institutional justice and the state it exposes the insufficiency of institutional justice left to itself and in so doing announces that justice must be ever incomplete, that any justice, “is always a revision of justice and the expectation of a better justice.”²²⁴ “Expectation”: a demand for something more in the future, for a more ethical justice, and a promise of the struggle for it.

This promise must be enacted through means extending beyond institutions and the state themselves. Levinas says there is an,

“extreme importance in the human multiplicity of the political structure of society under the rule of law, and hence institutions which the for-the-other of subjectivity – in which the I – enters with the dignity of the citizen into the perfect

²²³ Levinas, *Entre Nous*, 230.

²²⁴ *Ibid.*, 196.

reciprocity of political laws that are essentially egalitarian or held to become so.”²²⁵

Legislation, jurisprudence, political rights and so on are necessary, but they are never sufficient for Levinasian justice. Note the italicized terms: “perfect,” “held to become so.” While necessary, the institutions of the present political order, as we have seen (and as history has certainly borne out) fail to meet the hyperbolic and utopian perfection of justice once ethics intervenes. The dignity of the state is resultant of its becoming more perfect, more ethical, better justice.

We might, as do Victoria Tahmasebi and John Drabinski, call this political legitimacy. Both agree that political legitimacy is achievable only through the ethical. For Drabinski, “A politics whose universality is answerable to and derived from the singularity of the Other is a legitimate politics,”²²⁶ and in Tahmasebi’s words, “infinite responsibility functions as the measure of legitimacy for every social, economic and political arrangement, for every state.”²²⁷

The preceding discussion of the duality of Levinasian justice concurs with this analysis.

However, the stakes are higher than either Drabinski or Tahmasebi conclude.²²⁸ As it exists in

²²⁵ Emmanuel Levinas, *Alterity and Transcendence*, trans. Michael B. Smith (New York: Columbia University Press, 1999), 143.

²²⁶ John Drabinski, “The Possibility of an Ethical Politics: From Peace to Liturgy,” *Philosophy and Social Criticism* 26, no. 4 (2000): 58.

²²⁷ Tahmasebi, “Does Levinas Justify or Transcend Liberalism?,” 538.

²²⁸ Both Drabinski and Tahmasebi rightly insist that any the legitimacy of any state derives not only from ethics, but the specific imperative for economic justice. Levinas himself says as much in “The I and the Totality”: he asserts that ethics is, “realized in the work of economic justice.” *Entre Nous*, 17. Drabinski’s position will be further engaged below. As for Tahmasebi, she argues that as ethical justice “envelopes” formal justice the consequences for the state and its legitimacy are that, “The liberal achievement of formal equality (equality of rights and freedoms) is welcomed, and a Marxian struggle for formal justice (economic equality) is demanded.” “Does Levinas Justify or Transcend Liberalism?,” 538. Rightly, she notes, as we have above, that both of these requirements remain insufficient for fully achieving ethical justice, leading her to explain that ethical justice takes place through subjects in active resistance to injustice. With this I wholly concur. We will here, however, go further, explaining that Levinas expressly requires a space of political contestation which serves as the link between formal and ethical justice. Furthermore, I agree that Levinas’s insistence on economic justice is a key element of articulating a Levinasian politics. However, while Levinas himself may not gesture towards additional forms of oppression and resistance, I see no reason why, given the primacy played by all suffering and the subject’s “obsession with the oppressed,” to limit ethical political imperatives to material injustices alone. Breathing Marx into Levinas is indeed

the present historical moment, no state fails to marginalize, occlude, or allow people to suffer. In Levinas's words, "For me, the negative element, the element of violence in the State... appears when [it] functions perfectly[.]"²²⁹ In its very constitution and the distant universality through which it functions, the state is incapable of achieving the ever deferred and ungraspable ethical utopia commanded by the opening of justice to messianic futurity.

The state, then, represents both a condition of the possibility for justice and its effacement simultaneously. While institutions exist in the present, the essential futural element of justice ensures that it is never fully present; ethical justice unceasingly slips away. Reconciliation between the two is impossible. If the legitimacy of the state derives from the ethical and institutional justice is always a betrayal of a utopian ethical justice, there can be no legitimate state within the present.

This is the paradox within Levinasian justice. We find a chasm between two primary elements of Levinasian justice, the ethical and the institutional, and, importantly, between their respective positions in time – historical present and utopian future. Left without an account of the mediation and contact between the two capable of realizing the possibility contained within their aporetic contradiction, the notion of a more ethical "beyond" the state becomes little more than an abstraction without clear indication of how and by what means it is to counteract the illegitimate violence of institutional justice. If this is the case, then the charge that Levinas offers no account of active political transformation or for struggle in which political contests are meted out and decisions made in order to bridge the passage from between the institutional and ethical

a refreshing and fruitful project, but if we emphasize economic justice as the sole demand of Levinasian justice we risk sliding into a reductive Marxist orthodoxy and deprivileging a variety of equally pressing struggles. Just as he couples economic justice and ethics, Levinas later refers to "social justice." "The I and the Totality," 23. Perhaps he intends the terms to be equivalent. Regardless, the ambiguity lends itself to envisioning a more robust Levinasian imperative with economic justice as a central, but not the sole, aim.

²²⁹ Levinas, "Transcendence and Height," 23.

spheres of justice is true. Contrary to this charge, however, Levinas gestures toward an intermediary concept performing this function and providing the location of politics within Levinasian justice.

While he goes to great lengths to describe the ethical subjection of the subject, when we arrive in the territory of justice Levinas is markedly opaque as to the subject's place within theaporetic confrontation of institutional and ethical justice. Often he speaks as though this confrontation is one devoid of agents – “ethics” must always act as the critical interruption of “justice.” If ethics, ethical justice, is to act as a check upon, or a hammer with which to reshape, the state – the historico-political present – there must be some material medium through which this transformation takes place.

In articulating the site of political struggle in Levinas's text we must first introduce a conceptual nuance to our reading of the term “justice.” In order to understand the movement between institutional justice and ethical justice's grasping for an ethical utopia we must decouple the multiple spheres encapsulated in Levinas's term “justice” from what we will here call “politics²³⁰.” By politics we mean the activity of political contestation between opposing parties, agents in active opposition to institutions through which political transformation concretely takes place. Politics bridges the two contradictory spheres of justice, mapping the space wherein political action takes place.

Beginning to flesh out the political in Levinas requires turning to the body and affectivity as a the site which both signifies the demands for action and responsivity (in form of the concrete other and the third in their material circumstances) as well as the location through which politics is enacted. Levinas gestures toward this turn to the political body: “Justice is impossible without

²³⁰ This differs from Levinas's own use of the term “politics,” which is often conflated with the totalizing and calculative techniques of the state, even war. See for example the Preface to *Totality and Infinity*.

the one that renders it finding himself in proximity,” that is, in responsive proximity to the bodies and needs of others.²³¹ An “animate” body affects the subject immediately in the passive reception of suffering and need, or what Levinas calls “sensibility” – a sensing more passive than perception, prior to any subjective conceptual mediation, an immediate receptivity to the demands the other may make of one, exposing and initiating the possibility for response.²³²

Body in relation to body, subject in proximity to the other, then, not only signifies the ethical command, but likewise signifies the break with the political present. In the body we find that it is the location for the reception of the responsibility for an immemorial past, called forth in the present wherein the other suffers as a product of the prevailing institutional instantiation of justice and in which the subject’s response is enacted. Additionally, the body is the receptor for the signification of the imperative of ethical justice, announced by its absence but leaving a trace of what could be otherwise, pointing the subject beyond the present into a temporal futurity disclosing both the infinite possibility for a utopian justice and the infinite burden to carry that possibility into the future, in and through one’s body. Above we noted a lacuna between the institutional and ethical forms of justice. In the body of the subject we find our intermediary. On the body converge the multiple temporalities – immemorial past, synchronic present, ungraspable utopian future – making the embodied subject the agential site of the movement between the two senses of Levinasian justice, or the agitational catalyst embodying the interruption of the two. Conceptually we have seen that institutional and ethical justice are contradictory and leave us at an impasse; the corporeality of the subject is where the tension between them is carried out and where the transcendence of ethical justice becomes possible.

²³¹ Levinas, *Otherwise than Being*, 159.

²³² *Ibid.*, 69.

What then can we glean of “politics”? If politics is action taken within the field of contestation and moves between contradictory spheres of justice, and the body is the vital organ sustaining and making possible political action, then we find that “the political” in Levinas takes place in direct action undertaken through the corporeality of political agents. In speaking of politics with Levinas, we are not left to a distant and faceless bureaucracy, nor are we given merely an opaque sense of a just future to come. Rather, between the two lies the political body whose activity makes possible the movement between the two poles of justice. Transforming the body not only into an ethical agent, but a medium for direct political engagement with the institutions which have failed or harmed the sufferer. Embodied political activity is the manifestation of the interruptive force of ethical justice, tangibly brought to bear on the state and its institutions. What we here refer to as politics is the personification of Levinas’s characterization of the Saying which undoes the Said: “It is the very respiration of this skin[.]”²³³ Sensible affectivity – the immediate encounter with the failures of justice in the present as they are signified on the body of the other – penetrates the very corporeality of the subject, prior to any subjectively mediated intention, imbuing her with the political directive that the material conditions of society must be revolutionized, from the responsibility of ethics, toward the paradoxical imperative for a utopian, yet unreachable, perfection of justice. As with lungs filled beyond their capacity, the subject discharges political obligation, doing so through her “skin.” Exhalation is action, engagement, and contestation with the generative loci of oppression, degradation, exploitation, and wretchedness. Her body, filled to the brink with the exigency of justice, “turns into an allegiance.”²³⁴ Describing “disinterestedness,” Levinas explains that to honor the ethical obligation to the point of substituting oneself for the other is to embody a,

²³³ Ibid., 49.

²³⁴ Ibid.

“form of corporeal life devoted to giving.”²³⁵ Whereas “making a gift of my own skin”²³⁶ within the dyad of the other-I encounter amounts to coming to the singular other and sacrificing the bread from one’s own mouth in the face of inexhaustible responsibility, in matters of justice one lends her skin to the political fray, galvanized in excess of subjective interests, willing to sacrifice even flesh and being. Politics represents the activity whereby the subject honors the promise of a “better justice” in enacting political responsibility in the present as a harbinger of a messianic future.

Uncovering the concept of a “politics” which is not simply collapsible into Levinas’s term justice turns our attention to his employment of the term “work”. Regarding embodiment, Levinas states: “The corporeality of the subject is the pain of effort[.]”²³⁷ “Effort” strikes us here because, unlike Levinas’s oft deployed tropes regarding the nature of ethical orientation – “more passive than passivity,” “taking the bread from one’s own mouth,” “under accusation from the other,” and so on – we find here a markedly more active, assertive tone. Above, we noted that a conception of politics requires direct and active political struggle. Levinas here ties the “pain,” and we might say sacrifice and struggle, of “effort” to corporeality itself. If we can draw the correlation between the labor of the body commanded by the other’s alterity to the corporeal activity of politics suggested above, then the notion of laborious effort found here allows us to transition to a similar and further developed concept: “work.”

Before moving directly into a positive articulation of the conceptual import of work for politics, it is helpful to engage John Drabinski’s related attempt to parse the political significance of work and liturgy with an eye toward “The Trace of the Other.” This is especially helpful because Drabinski’s interpretation of “liturgy” has a similar conceptual import as the

²³⁵ Ibid., 50.

²³⁶ Ibid., 138.

²³⁷ Ibid., 54.

interpretation offered below. Drabinski aims to rethink what he calls “political space,” what we have called the terrain of political contestation, in Levinas by radicalizing the resources Levinas’s ethical phenomenology provides for thinking about politics while breaking with Levinas’s “conservatism.”²³⁸ Prioritizing the context in which both the other and the third are encountered, meaning the particularities of who the other and the third are, the gendered, raced, sexed, and classed elements of their corporeality and material situation registered through their bodies, their particular circumstances resonating within and lending content to their demands for justice – rather than the “nudity” of the face – Drabinski points a Levinasian politics toward the concretion of “asymmetrical political space”: “This insistence [on moving to the concrete particularity of the other and the third] returns us to the immediate and the factual...What seems

²³⁸ Before moving, as he says, “from peace to liturgy,” Drabinski spends a great deal of time outlining what he finds to be a political conservatism in the image of justice Levinas purportedly intends to offer. Drabinski refers to the position he attributes to Levinas as a “politics of peace.” In short, Drabinski argues that makes a mistake in modeling political space after the ethical relation itself. While it would appear the present argument comes close to making the same move as Levinas, the difference lies in Drabinski’s claim that in looking to the singularity of the other, Levinas makes a misstep in seeking an “anonymous foundation to law.” Drabinski sees that the “nudity” of the face abstracts from the contextual particulars in which the other is found, and thereby, of the other herself. Modeling its image of justice upon this nudity causes justice to lose the identity of the other and the third party – who they are, in their particularities, and consequently what their particular claims to justice may be. Instead, the state seeks peace through the protection of rights for all, or, in other words, achieving peaceable equality beneath the law reaches the extent to which Levinas’s conception of justice can reach. Political space is limited to the disinterested peace beneath the fixity of the law sustaining it between faceless and abstract subjects. The passage from ethics to politics, in privileging the nudity of the face in the political sphere as well, structurally, renders politics nothing but, “the symmetrical and neutral space of universal laws,” – the symmetry of the state. In light of this, Drabinski breaks with the politics of peace, claiming that Levinas fails to follow through on the radical potential of his phenomenology by understanding that, unlike ethics, politics is precisely “interested,” and that the work of politics and political engagement takes place within the “asymmetrical” political space of the present context in which we find the other and the third in their particularity, or, in concrete positions of asymmetrical social power and disadvantage – the content which politics aims to address. Were we to read Levinas as advocating the politics of peace Drabinski describes, I agree with Drabinski’s criticisms. However, despite sharing common elements, our arguments diverge because whereas Drabinski sees that to focus on asymmetrical political space is to make a break with Levinas, the present argument maintains that Levinas himself offers and, we might say, advocates the very turn to a “radical” political phenomenology and, therefore, proposes a divergent movement from the other to the political in contrast to Drabinski’s. We further differ in our views upon the relation between justice and politics. In line with the argument above, politics for Drabinski stays true to Levinas’s periodic usage of the term - politics is the symmetry and totality of the state. This being the case, justice, he says, “is the moral element of politics.” While we agree that justice and politics ought to be separated in understanding Levinasian justice, as is indicated in the above, the present argument takes politics to mean the activity of political contest and change and justice to be a multifaceted concept invoking both the totality of the state and the ethical catalyst for politics in the present sense. See, John Drabinski, “The Possibility of an Ethical Politics”, especially pages 49-62.

most apparent about concrete political spatiality is its asymmetrical distribution.”²³⁹ In short, finding the other and the third within material context makes readily apparent the drastic disparity in political capital, the distribution of resources, power, and the various ways in which each of these are consolidated by those privileged in social asymmetry. The other, then, provides testimony to this asymmetry. Drabinski, rightly, maintains that, “with the passage to asymmetrical political space, negotiated through the contextual Other and the third, a new set of political demands is present;”²⁴⁰ justice burdens us with answering for the historical and political disparities in power, wealth, conditions of exploitation and of oppression, and political violence. Ethically responsible politics takes place within this terrain.

While it will be momentarily argued that the move away from Levinas toward the concrete particularity rather than the nudity of the face is actually one Levinas both accounts for and provides a more nuanced account of, a moment to outline Drabinski’s depiction of a reworked Levinasian politics is called for in order to show its divergence from the present argument. Noting that Levinas transitions from the term “work” to “liturgy,” Drabinski tells us that to understand the significance of liturgy we must conceive of it through multiple, intertwining translations, both as “expenditure at a loss,” and, in what he calls its more traditional translation, as “public works.”²⁴¹ As public works, the giving of liturgy is not confined to ethics, but is political work in the public sphere. Therefore,

“[Liturgy’s] generous work is made possible by the institutions and laws of the ethical state. Liturgy, conceived in asymmetrical political space, reclaims the political. Liturgical giving in political space calls for a generosity that takes

²³⁹ Ibid., 63.

²⁴⁰ Ibid., 65.

²⁴¹ Ibid., 66.

place, not between singularities, but in and through public works [directed and enacted by the aforementioned institutions of the state].²⁴²

Through these public institutional and legal projects, Drabinski envisions a democratic redistribution of political power and control over political and economic capital. Furthermore, especially considering disparities in wealth, institutional liturgy invokes “expenditure at a loss” in programs for the forfeiture of extreme privilege and wealth accumulation and redistribution of wealth.²⁴³

While Drabinski is right to note that work/liturgy marks the return of “the political” – the terrain political contest and implementation of political decisions – his account of how it does so is insufficient for a Levinasian politics. Regarding first the notion of public works, in placing the onus for the execution of these projects on the state and juridical institutions, the political subject is lost. Public works, as Drabinski formulates them, locate the entirety of the interruptive relation between justice, ethics, and “the political” within the confines of institutional justice. This is striking because in outlining the contours of asymmetrical political space, Drabinski identifies that it is the subject in proximity to the other within culture who receives the political imperative to alter the existing material conditions of society. Yet, that very subject disappears as the consequent transformative action takes place from a distance and through a faceless institutional nexus. Conceiving public works as the political potential in Levinasian justice returns us only to the formal justice of the state, thereby making politics and political action the work of the totality alone and stunting the radical potential contained within the call for ethical justice embodied in the political subject. Drabinski’s account of public works accounts for the necessary, yet insufficient, work of political institutions, but cannot account for the agency which

²⁴² Ibid.

²⁴³ Ibid., 67-68.

would continually contest and propel those very institutions toward the futural trace of ethical justice. Drabinski's account of liturgical politics fails to adequately address the interruptive force of the passage between institutional justice to an imperative for ethical justice.

Despite these problems, Drabinski's move toward an asymmetrical political space wherein the other and the third face the subject within their particular material context is a fruitful one. It is, however, a move that Levinas insinuates himself and which can reconcile the apparent tension between the other/third as culturally located and historically bounded particulars whose bodies appear within the existing network of socio-political norms and, at the same time, singularities registering the "nudity" of the face. In providing a link between the materiality of the other's suffering with the alterity of the face, Levinas can convincingly provide an account of the movement from concrete particular to ethical justice. This will allow us to tie the significance of work to the embodied subject of politics discussed above and identify the concrete link between institutional justice, ethical justice, and political transformation.

Explaining the significance of the other's appearance within a cultural context, Levinas says,

"The other is present in a cultural whole and is illuminated by this whole, like a text by its contents. The manifestation of the whole ensures this presence and this present...The comprehension of the other is thus a hermeneutics and an exegesis. The other is given in the concept of the totality to which he is immanent, and which...our own cultural initiative, the corporeal, linguistic, or artistic gesture expresses and discloses."²⁴⁴

²⁴⁴ Emmanuel Levinas, "The Trace of the Other," in *Continental Philosophy: An Anthology*, ed. William M. Neill and Kern S. Feldman (Oxford: Blackwell Publishing, 1998), 180.

The subject and the other can only come into proximity through concrete bodies which themselves exist necessarily within the rich context of culture, politics, and social normativity. The presence of cultural and political signifiers is ineradicable. Like a text, the other's locatedness strikes the subject with the materials for interpreting how the material conditions of society, the distribution of advantage and disadvantage, power, and hierarchical social norms affect the other, and, therefore, for deciphering the root cause(s) of her placement within the social stratification and the mechanisms productive of her particular condition. The other is always already enveloped and encumbered by politics. Exposure to the other's factual social existence likewise provides the tools for determining the structural forces to be contested and overhauled and, then, a sense for the means necessary – the strategy for political engagement – to undo the other's suffering, exploitation, or oppression.

Then what of alterity, ethics, and the motivation to act for justice even once one finds the other within her socio-political context. We must pay attention to the language of this passage. Note that Levinas's remark concerns the "comprehension" of the other, her "presence" in the "present." Employing these terms is instructive because it informs us that the cultural signification of the other can only be comprehended in and through its placement in synchronic history and the consciousness of the subject. Indeed, Levinas explains that, "[The other's] cultural signification is revealed and reveals as it were horizontally, on the basis of the historical world to which it belongs."²⁴⁵ Cultural signification registers only within the linear movement of the historical present and the interpretive flow of the subject's consciousness, meaning we have not yet introduced the significance of the diachronic temporality investing the encounter with responsibility and pointing toward the alteration of the present.

²⁴⁵ Ibid.

To this point, Levinas continues: “But this mundane signification is found to be disturbed and shaken by another presence, abstract, not integrated into the world.”²⁴⁶ This presence is the face in its nudity, the transcendent alterity of the other irrupting through and beyond history and culture. The face is abstract in its epiphany, the ethical charge of responsibility, because the other’s alterity signifies in such a way that the contingent particularities of the other’s circumstances are superseded by the unconditional obligation of ethics. However, taking this to mean these material particularities are of no importance or that the nudity of the face is abstract to the point of rendering irrelevant who and where the other is and how she exists in the world is mistaken. Rather, “The other not only comes to us from a context but signifies by itself, without mediation.”²⁴⁷ Notice that there is not an either/or binary between singularity as the nudity of the face and particularity as the other in a concrete spatiotemporal location. Rather, the other comes to the subject evincing both at once; the other is at once historically, culturally, and politically embodied and the face which commands free of any “ornamentation.”²⁴⁸

In breaking with the totality of the present while simultaneously being situated within it, the dual cultural and ethical significations signified by the other mimic the structure of the Saying and the Said. While the Saying, in its activity, is prior to the thematization of the Said, it necessarily takes place within the very Said it transcends and ineluctably crystalizes into a thematized and hypostatized Said itself. Likewise, the other comes to the subject as the nudity of the face only within the thematized and synchronic historical and political present, in what Levinas refers to as the world of “clothed beings.”²⁴⁹ Yet, in facing the subject, the other’s demand for responsibility exceeds any thematization resultant of the socio-historical context.

²⁴⁶ Ibid.

²⁴⁷ Emmanuel Levinas, *Humanism of the Other*, 31.

²⁴⁸ Levinas, “Trace of the Other,” 180.

²⁴⁹ Emmanuel Levinas, “Ideology and Idealism,” in *The Levinas Reader*, ed. Sean Hand, trans. Sanford Ames and Arthur Lesley (Oxford: Blackwell Publishing, 1989), 243.

Emphasizing the duality inherent to the encounter with the other is significant because it allows us to understand how the other can at once be absolutely singular and on the other hand be comprehended as representative of socio-political themes, categories, and the conditions adorning her. Since the other always appears already within politics, even while exceeding and exploding the thematization of the social world, she embodies the “privileges of rank” – social, economic, political, or cultural inequalities – which “obstruct justice.”²⁵⁰

Finding the other within politics creates a multilayered and complex signification. In the temporal present the other marks and is marked by injustice and, in the same moment, “[The] Face comes as ‘nakedness of [the other’s] visage,’ in his noncondition as proletarian[.]”²⁵¹ Abstracting from the contingencies of the historical present, the other’s singularity sheds the trappings of her material conditions to expose the site of ethical obligation. More clearly, the nudity of the face and the unconditionality of responsibility disclose that the other is precisely not exhaustively contained by the conditions of suffering, degradation, or oppression, but transcends them – her plight is not essential and is, then, eradicable. A world perfected would be devoid of subordination and useless suffering; this other need not suffer and yet does, demarcating injustice, which when seen simultaneously with the futurity of the diachrony brought forth by the ethical encounter points to the necessity of a new order, fueled by the responsibility of the subject for the other, in which conditions of subordination and social hierarchy are nonexistent – a future without suffering.

Gesturing toward the multilayered and complex significations embodied by the other as other and as social-historical-political artifact, Levinas explains,

²⁵⁰ Ibid.

²⁵¹ Ibid., 244.

“Though an expression of the objective relations of society, those ideas must also satisfy a living conscience, which judges those objective relations. The human world is a world in which we can judge history.”²⁵²

The diachrony of ethics, experienced as that “living conscience” of the subject, glimpses beyond the imperfect and unjust conditions of society, rendering judgment upon them through the image of a “prophetic moral order”²⁵³ - an ethically utopian justice.

Returning to the political significance of “work,” what we have termed “politics” is, “to work in the present for the most distant things of which of which the present is an irrefutable denial.”²⁵⁴ Justice in its ethical and futural sense provokes the critical judgment of the present, meaning the social-political signification of the other is both instructive and burdensome for the subject implicated within the potential future achievement of justice. In other words, the failures of the present concretely expose, in themselves, the absences and failures of justice, such as homelessness, starvation, the atrocities of war, poverty and economic destitution, overtly violent and covert structurally violent forms for political and cultural oppression, to name but a few examples. Observing these conditions negatively calls forth their other – a world in which they are not present, have been overturned. The irrefutable denial of justice before the subject’s very eyes is the inspires the political imaginary to envision not only what could be different, but the techniques of political engagement through which such a future may come to fruition. By this we mean identifying those structures of society, political institutions, specific policies and their agents, for example, and directly confronting them in the embodied action discussed above. Affected by a cry for a justice which could be other than the present, but bounded by the body

²⁵² Levinas, *Entre Nous*, 31.

²⁵³ *Ibid.*, 107.

²⁵⁴ Levinas, *Humanism of the Other*, 28.

within the injustice of the historical moment, politics is the labor of direct contestation and engagement for the possibility of justice.

Politics is, then, “accomplishing a work within [the totality, the historical present],” not as disengaging from it or in renouncement of it, “but for it – that is in its service. To serve the totality is to fight for justice.”²⁵⁵ Politics is the work of actively and concretely reshaping the political totality - the formal institutions of justice – not merely through a retreat to legislation or the formality of law, but through action on the part of subjects to force the transformation of those institutions. Politics as work acts in excess of the possibilities of formal reforms in order to fashion new instantiations of justice, within its formal sphere, which exceed the present. In Levinas’s terms, “Let the future and the most far-off things be the rule for all present days...[this] is the passage to the time of the other.”²⁵⁶ Active political engagement, as work, is the embodied actualization of the ethical judgment of history. Here the body becomes the unity of all times and, through its activity, it struggles to propel the present into a more just future. In this sense, political work is utterly gratuitous; it is for an impossibly unreachable time. Work, “is action for the world to come, surpassing one’s era[.]”²⁵⁷ Work makes manifest a glimmer of the hope of ethical justice within the present. Work as politics is a patient urgency: it is possible only through an absolute patience for a utopian justice to which the labors of the present cannot catch up – make present – and yet that the other suffers here and now incites an imperative that the body of the subject and its projects “burns with a fire” for the “unassimilable surplus” of the beyond-the-present.

Politics is the activity of political contestation which is the renunciation of self, of self-interest, of coming to rest in the satisfaction of an accomplishment as one’s political work is

²⁵⁵ Levinas, *Entre Nous*, 37.

²⁵⁶ Levinas, “Trace of the Other”, 179.

²⁵⁷ Levinas, *Humanism of the Other*, 28.

characterized and made ethical by the very notion that she will never, “[enter] the promised land.”²⁵⁸ It is fighting beyond the self, into the fray of politics, for the glimmer of hope made present by what is not present and what could be otherwise, made urgent by the demands of and responsibility toward the other, indeed all others. As work, politics is the material manifestation of what Levinas terms “dying for the other”: fighting within the present for a future beyond one’s own time, for the others to come who will be done justice. The gratuity of work is, in a sense, the abnegation of the self for a cause, in inspiration that there is possibility in the present and through our hands to make another world, and another time, possible.

If in work we find an intermediary practice of politics bridging the institutional justice of the present to the demand for a more ethically just future, and politics is, then, the direct engagement of bodies in the terrain of political contestation – the concrete sites of political struggle – then we can finally address the charge that Levinasian justice fails to provide a necessary account of the moment of political decision and the subsequent conflict attendant to it. Political work emanates directly from the judgment of history brought to bear on the present by the other’s presence within the “clothed” and “adorned” world of socio-political injustice and her naked and demanding countenance charging the subject, indeed each of us, with the responsibility for the emergence of ethical justice. With the present judged, work deploys the political imaginary of its laborers, who take up responsibility through imagining what the messianic utopian justice of the future might be. Through their hands, their voices, their very flesh, judgment and imagination come together as the political decision. A choice is made – for the other, for a just future. Responsibility for the other and for justice is nothing other than action – the expression of corporeal giving - making clear that the moment of political choice is necessarily tied to the embodied activity of political engagement. Political work is the outcome

²⁵⁸ Levinas, “Trace of the Other,” 179.

of the subject subjected by an other who approaches both as representation of material injustice and as an unconditional refutation of suffering. It is not the motivation for revolution, nor is it the outcome; it is the act of socio-political transformation through political struggle with the mechanisms of injustice. In sum, exposedness produces judgment; judgment evokes imagination; imagination paints a mosaic of possibility and of an ethically just world; political decision joins the preceding in a decision and a call to action, an announcement by the political subject that “Here I am, for justice!” Work is action, struggle, labor, a conflict for a future worthy of ethics, beyond the self. Politics as the work of justice is unceasing, its goal constitutively unattainable, yet urgently enacted for the victims of violence, oppression, and injustice. Its acts are themselves contingent, molded by the demands of the present circumstances, yet thoroughly shot through with the excessive normativity of the ethical command.

Finally, Levinasian political labor, while robustly accounting for the catalysts and enactment of political contestation, does so without reverting to the “Friend/Enemy” dichotomy which would lead it back to enclosure and a return to the same. Political work is directed not at others made enemies, but is directed instead toward the historical moment judged by ethics, the moment of injustice, the institutions of the present. Overturning the present, for the future, in the name of the other, through our bodies and labors is the work of politics. Responsibility is manifest in the bodies, the voices, and the hands of those crafting revolutionized instantiations of justice in its institutions and those laboring to overturn the material catalysts of deprivation, persecution, inequality in a movement toward the trace of justice.

This need not tend toward conceptual abstraction. Invoking work as the labor of political action, a Levinasian account of the political and of political contestation is expressed the activity

of progressive transformative social movements, the same movements theorists of radical politics and liberation like Mouffe and Dussel embrace. It is ethically gratuitous action in the political sphere invoked not for the interests of individuals, but toward the end of oppression, exploitation, degradation, or exclusion. Amidst the threat of violence and persecution, subjects stand together in political action, caring not merely for the interests of the self, but for the reversal of the unjust order itself, even should the attainment of justice come too late for the subject herself. Politics, work, exceeds the self, in responsibility for all the others, as sacrifice, effort, struggle – “expenditure at a loss.”

Just as the face of the other may express suffering, so too does it unveil the potential for an ethically just future. Lying between the present moment and the ever deferred moment of utopia traced in the eyes of the other, potential for justice is harnessed when our flesh and sweat are made tools for disrupting the machinery of injustice and for building, positively constructing and revolutionizing, a greater, if ever fallible, embodiment of justice more worthy of ethics’ excess and of the utopia to come, through judgment, action, and political conflict.

CONCLUDING REMARKS

The preceding discussions took up the project of questioning the relationship between ethics and politics in political theory. It did so through identifying three approaches to establishing the formal relationship between these concepts: Ethics as primary, the action of politics as primary, and a relationship of tension between distinct and equally primary concepts. These analyses take the explicitly stated premises to show if and how internal tensions or self-undermining conclusions result from the relationship established between the concepts in question.

It is important to remember that each of these theories aims at the absence of domination and oppression and toward the realization of human flourishing. Each, then, identifies that there must be relationship between the ethical and the political, the normative and the practice of governance. Each also recognizes that the subject has a role to play in the realization of this ethical end toward which the political ought to move. It is argued that only in Levinas's tense relationship between the ethical and the political do we find a theoretical account of this relationship conceptually capable of realizing its ends, from within its own terms.

Tracing where we have been, throughout the preceding chapters we have seen two poles established. At one end the normativity of the ethical and at the other the action and the institutions of the political. Parts I and II identified two trends in political theory, establishing a position of conceptual priority at one or the other pole. We might say, then, that each of these trends places the subject at one end of this spectrum between poles and that the matter of the opposing pole was either collapsible into or subordinately related to the first. We have shown that this order of priority, on either end, results in internally problematic theories.

More specifically, to privilege the ethical, as Kant and Rawls do, results in the minimization of, if not the loss of, politics, especially as active political practice on the part of the subject. This minimization of politics consequently produces conclusions which also counter the aims of the ethical, and with it the aims of these formulations of the political are premised upon. Similarly, but on the other end of the conceptual spectrum between the ethical and the political, Arendt and Marx conceive of ethics as secondary to political action. In both cases the diminished status of the ethical results in concepts of politics which not only cannot realize the normative ends of their political theories, but also which produce internally self-undermining conclusions for their concepts of politics as action as well. In summation, where either ethics or politics is in a position of primacy over the other, where the emphasis – and, importantly, the subject – is placed at one pole or the other, both concepts are compromised.

It is worth noting that the discussion contained within this project, despite critiquing these positions as internally fraught, does not intend to claim that they are wholly without merit. Indeed, each provides key elements for the political aims shared by them all. Kant rightly identifies that the conditions for flourishing are possible only through the ethical placing demands upon the political and that these demands are the normative content of an ethical order beyond the present. This normative content is the matter of political change. Rawls rightly aims toward a conception of the state wherein it is possible to ensure that the authority of the state does not act as an oppressive force within the lives of its citizens. Arendt and Marx agree that action and political engagement on the part of the subject is a necessary element for the possible realization of concrete political change. The normativity of politics is becomes tangible only when actors make claims in public and demand the alteration of the present state of affairs. Taken together, these components build toward a realized politics of human flourishing. Our

central claim, however, is that theorized as they are, specifically through the relationship between ethics and politics, each of these theories internally precludes the possibility of bringing together these parts into an internally viable and consistent account.

Part Three interprets Levinas as avoiding these pitfalls. Two modest conceptual divergences from the other theoretical formulations account for this. The first of these divergences is the insistence that ethics and politics are not concepts which are either derivative of or merely subordinate to one another, but instead must be two distinct and independently formulated concepts and as distinct each has a particular claim to make upon the subject, calling for an active response. This results in the disentangling of politics from the political, formulating politics as a distinct concept embodying ethically motivated action within the sphere of the political. Politics is, then, a third concept between the ethical and the political and this concepts represents the bridge between these two concepts. From this follows the second crucial theoretical difference: The subject is defined as the embodiment of the relationship between the ethical and the political. The subject acts as the intermediary between the two concepts through ethical-political practice, accounting for the possibility of striving toward the end of human flourishing and the eradication of domination, oppression, and suffering.

By formulating the ethical and the political as not only distinct concepts, but as conceptually oppositional compliments, Levinas avoids forfeiting the status of either concept to its other. The result of this is two distinct sets of responsibilities which the subject is not only obligated to, but which are co-constitutive of subjectivity itself. Levinas, then, accounts for the practice of ethics and the practices of governance and the maintenance of justice, distinctly, but does so in a manner which forms a clear bridge between the two – the subject, her action, as the site of response, i.e., of political action. This constitutes a clear relationship between the ethical

and the political, and ethics and politics, without diminishing or relegating either to a secondary position. Certainly, this is a tense relationship. Yet, unlike the internal tensions found in the other formulations of this relationship, this tension is a productive one. In the interplay and interruption between ethics and justice, the ethical and the political, the dual responsibilities of ethics and of justice create a new concept – ethical political practice, i.e., politics as we have defined it from within Levinas’s terms.

This concept is crucial because it represents the conditions for the possibility of realizing the aims we have claimed each of these political theories is committed to: The establishment of flourishing through political activity capable of transforming the political world. It does so by accounting not only for the normativity of politics and the relationship between that normativity and the institutional and structural elements of the political, but does so in a way capable of clearly identifying the subject’s role within the process of political transformation as the very site of that transformative potential without problematically determining that subject as principally ethical or political in constitution. The subject is ethical-political because Levinas defines subjectivity as between the ethical and the political. From this position between the ethical and the political subjectivity is constituted as the condition for the relationship between these two poles. From this position comes the possibility for the realization of both concepts, and therefore constitutes the subject as the possibility for human flourishing.

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