Liberalism Beyond Institutions

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Liberalism is often associated with institutions, broadly construed; and liberal theory has often shown institutionalist inclinations.[2] Many theorists of liberalism conceive of their tasks in terms of the elucidation of the principles that should govern institutions; the goals that institutions should serve; the dangers posed by faulty, and those that threaten good, institutions; the ways that institutions should be designed, implemented, and operated. This institutional orientation is evident across different formulations of liberalism. A recent work defines liberalism as a doctrine that "argued for the limitation of the powers of governments through law and ultimately constitutions, creating institutions protecting the rights of individuals living under their jurisdiction," adding that liberalism "refers to the rule of law, a system of formal rules that restrict the powers of the executive, even if that executive is democratically legitimated," so as to confer and protect individual rights.[3] The earliest self-identified liberals were not only concerned

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2 I use "institutions" here broadly, to get at something similar to Richard Flathman's definition: "Institutions consist primarily of more or less articulated and interrelated nodes or amalgams of rules and norms (and rule makers and enforcers) that are accorded authority by those who accept them or who submit to their governance" – gets at what I mean to gesture at. Flathman, *Reflections of a Would-Be Anarchist: Ideals and Institutions of Liberalism* (University of Minnesota Press, 1998), xv-xvi. "Institutionalism" here refers to a set of ways of thinking about or conducting politics that centers institutions; this encompasses several distinct views. To be *practically* institutionalist is to prioritize and rely on the workings of institutions, as necessary and/or sufficient for the realization of political goals. To be *theoretically* institutionalist is to see politics as defined by, or located in, the workings of institutions, so that truly *political* thought/theory should concentrate on institutional matters (this is what Jeremy Waldron means by "*political* political theory"). Some liberals are institutionalist in *orientation*, insofar as, even though they address phenomena that go beyond institutions, they view these phenomena in terms of their relationship to the institutional commitments of liberalism—so that e. g. discussions of personal conduct or virtue follow from, and are nested within, institutional theories (Rawls's *Theory of Justice* being an influential example). Finally, "institutionalism" may refer to a habitual disposition or mindset that applies an institutional paradigm—of (fixed,, codifiable) rules, roles, decision procedures—to thinking about politics broadly; this resembles what Nancy Rosenblum calls "legalism," with its ethos of impersonality and rule-making and following (Rosenblum *Another Liberalism: Romanticism and the Reconstruction of Liberal Thought* [Harvard University Press, 1987], 34-8).

3 Francis Fukuyama, *Liberalism and its Discontents* (Farrar, Straus and Giroux, 2022), vii, 2-3. Fukuyama further stresses the legalism and proceduralism of liberalism.

with the principles of institutions, but often sought to do politics – and political theory – through

constitutional design;[4] their distinctive political standpoint was defined largely by their

identification of "the rule of law" as the antidote to both "popular passions" and "despotism" –

two political forms that placed will above and beyond procedure and norms.[5] Liberalism has,

over its history, been identified with programs of constitutional and/or parliamentary

government, and regimes of markets and/or rights.[6] The most influential liberal theorist of recent

decades, John Rawls, declared justice to be the "first virtue of institutions," and saw political

philosophy as concerned with the formulation of general principles that might apply to the

institutions that compose the basic structure of society.[7] Many "realist" liberals, despite their

differences with Rawls, share this focus on institutions, preferring to rely on "institutional

constraints," established by "[e]numerating, delegating, and balancing power," rather than

"personal virtue," as "a guarantee of liberty."[8] Even liberals who recognize the importance of

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4 E.g. Benjamin Constant, whose constitutional theories are reflected in *Réflexions Sur Les Constitutions, La Distribution Des Pouvoirs, Et Les Garanties, Dans Une Monarchie Constitutionnelle (1814)* the 1815 and *Principles of Politics Applicable to All Governments*, and his *Cours de politique constitutionelle* (1818-20), as well as in the constitution he drew up for France in 1815, the "Benjamine."

5 Germaine de Stael, *Considerations on the Principal Events of the French Revolution*, ed. Aurelian Craiutu (Liberty Fund, 2008), 237.

6 Constitutionalism and/or parliamentarianism defined the politics of some of the first to adopt "liberal" as a political label – the Spanish *liberales* who advocated the Cadiz *cortes* of 1810 and the Spanish Constitution of 1812; the "liberal party" who seized power in Sweden in 1809; and the circle around de Stael and Constant. See Edmund Fawcett, *Liberalism: The Life of an Idea* (Princeton University Press, 2014), 7-8; Helena Rosenblatt, *The Lost History of Liberalism: From Ancient Rome to the Twenty-First Century.* (Princeton: Princeton University Press, 2018), 61-7. For "parliamentarianism" as *the* defining commitment of (nineteenth-century) liberalism see Gregory Conti, *Parliament and the Mirror of the Nation: Representation, Deliberation, and Democracy in Victorian Britain* (Cambridge: Cambridge University Press, 2019); William Selinger *Parliamentarianism from Burke to Weber* (Cambridge: Cambridge University Press, 2019); Selinger and Conti, "The lost history of *political* liberalism," *History of European Ideas* 46:3 (2020), 341-354.On the interplay of constitutionalism, parliamentarianism, free trade, toleration, and other values in varying national contexts, see Michael Freeden, Javier Fernández Sebastián, and Jörn Leonhard, eds. *In Search of European Liberalisms* (New York: Berghahn, 2019).

7 John Rawls, *A Theory of Justice* (Harvard University Press, 1971), 3; see also Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Harvard University Press, 2001), especially 5-18, 39-42, 52-7.

8 Nancy L. Rosenblum, *Membership and Morals: The Personal Uses of Pluralism in America* (Princeton University Press, 1998), 290. See e. g. Jeremy Waldron, *Political Political Theory: Essays on Institutions* (Harvard University Press, 2016); Andrew Sabl, "Realist Liberalism: An Agenda" in Sabl and Rahul Sagar, eds. *Realism in Political*

instilling certain dispositions and values in citizens often prefer to do so through a form of *institutional indirection,* through the workings of constitutionalism, representative democracy (with its processes of public deliberation and accountability), and the voluntary associations of civil society.[9] And the virtues, dispositions, ethos that many liberals would promote are often institutionalist: fairness, impartiality, reasonableness, and a "social ethos of rules"—qualities reflecting an institutionalist political morality marked by impersonality, generality, regularity, predictability, and legality against instability, irrationality, arbitrariness, and caprice.[10] Intentionally or not, simply or not, orientation toward institutions is connected to an emphasis on rules and rule-following, and a tendency to assimilate both normative thinking and acting to a kind of engagement with the world in which rules and rule-following play significant roles. It also tends to emphasize process—and the importance of maintaining fairness, consistency, and integrity of process—as a significant normative consideration.

There is much to be said in favor of this institutionalist disposition. The functioning of human society frequently does depend on our ability to (re)construct procedures and rules, and take on functions and roles, that ensure (or at least approximate) equity and regularity, protect against uncertainty, arbitrariness, and abuse, construct and constrain deliberation and debate, resolve disagreements that would otherwise be intractable. But institutionalism comes at a price. It also provokes critics. Liberalism's alleged or avowed institutionalism (and linked qualities of legalism, proceduralism, and rationalism) is a main target of "romantic," "communitarian," and/or "civic republican" critiques. The charges are familiar: liberalism is identified with cold

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Theory (Routledge, 2018), 98-116.

9 See e. g. George Kateb, *The Inner Ocean: Individualism and Democratic Culture* (Cornell University Press, 1992), especially chapters 1-3; John Rawls, *Political Liberalism* (Columbia University Press, 1993), especially at 163; Stephen Macedo, "Transformative Constitutionalism and the Case of Religion: Defending the Moderate Hegemony of Liberalism," *Political Theory* 26: 1 (1998), 56-80.

10 Rosenblum, *Another Liberalism*, 34-7.

legalism and morally neutral (or vacuous) proceduralism, turning away from civic virtue in favor of a reliance on legal codes and processes and administrative power, which spawns democratic discontent (or indeed, degradation), and even the destruction of politics itself.[11] Still sharper critics identify liberalism with an incoherent, unsustainable, and ultimately self-destructive faith in the power of institutions, and the norms that govern them, to regulate social life in the absence of political will and judgment.[12]

The picture of liberalism as, for good or ill, heavily institutionalist has been challenged by theorists who have stressed liberalism's need for a more "ethical" orientation, which looks to personal conduct, character (or selfhood), and judgment. Liberalism, they suggest, is (or should, or must, be) defined by a way of life as well as a framework of rules.[13] Recent historians of liberalism have reminded us of a rich tradition of earlier liberal thinkers engaging with such ethical questions, and offering a psychologically "thicker" and more civic-minded perspective than is often acknowledged in stereotyped accounts of liberalism.[14] The arguments express both aspiration, and fear: aspirations toward a more inspiring, personally engaging conception of

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11 For such critiques, see e. g. Sheldon Wolin, *Politics and Vision* (Princeton University Press, 2004 [first edition 1960]); Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Harvard University Press, 1996); Thomas A. Spragens, Jr. *Civic Liberalism: Reflections on Our Democratic Idealism* (Rowman and Littlefield, 1999); David Ciepley, *Liberalism in the Shadow of Totalitarianism* (Harvard University Press, 2007).

12 See e. g. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty,* trans George Schwab (Chicago: University of Chicago Press, 2005), especially 14, 21, 36, 48; see also Schmitt, *The Crisis of Parliamentary Democracy*, trans. Ellen Kennedy (Cambridge MA: MIT University Press, 1985), especially 54, 102.

13 E. g. Stephen Macedo, *Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism (*Oxford: Oxford University Press, 1990); William A. Galston, *Liberal Purposes: Goods, Virtues and Diversity in the Liberal State* (Cambridge: Cambridge University Press, 1991); Richard Dagger, *Civic Virtues: Rights, Citizenship, and Republican Liberalism* (Oxford University Press, 1997), Peter Berkowitz, *Virtue and the Making of Modern Liberalism* (Princeton University Press, 1999); Sharon Krause *Liberalism with Honor* (Harvard University Press, 2002); Jason Scorza, *Strong Liberalism: Habits of Mind for Democratic Citizenship* (Tufts University Press, 2007); Charles H. T. Lesch, *Solidarity in a Secular Age: From Political Theology to Jewish Philosophy* (Oxford University Press, 2022).

14 Fawcett and Rosenblatt, *op. cit*; see also, for a more historically-circumscribed discussion, Alan Kahan, *Aristocratic Liberalism: The Social and Political Thought of Jacob Burkhardt, John Stuart Mill, and Alexis de Tocqueville* (2nd edition, Transaction 2001 [1st ed. 1992]); Alex Zakaras, *Individuality and Mass Democracy: Mill, Emerson, and the Burdens of Citizenship* (Oxford University Press, 2009)

politics, and fear of institutions' inability to inspire devotion or prevent defection, to respond to emergencies or resist corruption over time—and the fear that institutionalism may breed complacency, conformity, suppression of individual temperament and surrender of individual judgment, imperilling the sort of life favored by many liberals.[15]

Yet efforts to retrieve a form of liberalism more oriented to the cultivation of personal agency and character present problems which should worry many liberals. One is that to turn from looking to institutional arrangements—and, what is connected but not quite the same thing, the deep social and economic structures that shape human lives—to a more ethical focus will breed a deficiency of political realism, and blind us to sources of injustice and suffering which lie beyond individual conduct. A second worry is that to move beyond institutions to matters of individual character, outlook, and habit, and the shared ethos that reflects and fosters these, involves moving from the concrete, precise, and well-defined (and thus, useful, analyzable and controllable) to the vague,[16] elusive, and even (if we are to believe "character skeptics" in moral psychology) fictive.[17] This worry is particularly strong among those who think that liberalism should offer a useful political program – and that political theory should aspire to the precision and conclusiveness of the sciences.

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15 This line of thought has been particularly developed in the work of Richard Flathman; see e. g. *Reflections of a Would-Be Anarchist,* especially 49-104. Elements of it are presaged by (in addition to those figures drawn on by Flathman) Max Weber, with his anxieties about bureaucracy, rationalization, and the rise of the "men of order." See e.g. Weber, "Politics and Government in Germany Under a New Political Order," in Weber, *Political Writings* ed. and trans. Peter Lassman and Ronald Spiers. (Cambridge University Press, 1994), 130-271.

16 As T. M. Scanlon nicely puts it, to move from institutional to attitudinal aspects of a liberal goal (in his case, toleration) is to move "from the indeterminate to the vague." Scanlon, *The Difficulty of Tolerance: Essays in Political Philosophy* (Cambridge University Press, 2009), 190.

17 See e. g. John M. Doris, *Lack of Character: Personality and Moral Behavior* (Oxford: Oxford University Press, 2002). For defenses of a more nuanced conception of character, see Maria Merritt, "Virtue Ethics and Situationist Personality Psychology." *Ethical Theory and Moral Practice* 3:4 (2000): 365-383; Rachana Kamtekar, "Situationism and Virtue Ethics on the Content of Our Character." *Ethics* 114:3 (2004): 458-491.

A further and, I think, deeper (insofar as it strikes to the heart of much recent liberal theory) worry is that an ethically-centered liberalism raises the spectre of the tutelary state; and poses, or begs, questions about human flourishing and perfection which liberalism, out of epistemic modesty, skepticism, or a (political and epistemic) strategy or method of avoidance, should eschew.[18] If at least one important strand within liberalism is a fear of an overly constraining conception of how individuals should live, and of attempts to impose, or even encourage, such a "good life" through political action, then it may be safer, and more consistent, for liberalism to confine itself to articulating a just and stable institutional framework within which individuals can go about their own affairs in their own way. There may therefore be a compelling, non-contingent and principled connection between liberalism and a tendency to orient political thought and action around institutions rather than character or ethos.

Nevertheless, liberals do keep moving beyond mere institutions, to look at matters of personal conduct and character.[19] There are good reasons for doing so, and good ways to do so within a liberal framework. In what follows I seek to identify the reasons why some past liberal thinkers sought to go beyond institutions (and institutionalism); and show how they sought to craft such "personal" versions of liberalism in a way that would avert the problems of coercion and uniformity—and, indeed, might do so *more* effectively than a purely institutional approach. The account offered is not comprehensive, or even fully representative. I say little about some of the most obvious suspects in recovering a liberalism centrally concerned with the development

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18 The phrase "method of avoidance" is from John Rawls, in "The Idea of an Overlapping Consensus," republished in Rawls, *Collected Papers,* ed. Samuel Freeman (Harvard University Press, 1999), 395. For an argument that liberal institutions (and practices) suffice, and we should eschew a "liberal ethos" for the sake of tolerance and civic peace, see Kevin Vallier, *Trust in a Polarized Age* (Oxford University Press, 2021)..

19 This is true of even "institutionalist" liberals: e. g. Rawls, *A Theory of Justice*, Chapters VI-IX; Scanlon, *The Difficulty of Tolerance*, especially 189ff, 198; Amy Gutmann and Dennis Thompson, *The Spirit of Compromise: Why Governing Demands it and Campaigning Undermines It* (Princeton University Press, 2012).

of character (e. g. Humboldt, Mill, Idealist liberals, or recent "perfectionist" liberals). I do this to avoid repetition of points already made well by others, and to make my task somewhat harder— and thus my conclusions, hopefully, more interesting. My selections also aim to challenge two dichotomies that are often deployed in characterizations of liberalism. One is between "ethical" or character-driven, and institutionalist or proceduralist liberalisms. The other is between more hopeful, optimistic or ambitious versions of liberalism, and more pessimistic, negative, and minimalist variants. These dichotomies are often treated as parallel, if not actually coterminous; and taken to characterize successive epochs of liberal thought.[20] One of my goals here is to prise these dichotomies apart, by showing that a number of thinkers have *both* taken a more negative, protective, non-perfectionist, or minimalist approach to liberalism, *and* seen liberalism as involving an ethos and set of dispositions. I will also, albeit less centrally, depart from a tendency to categorize different liberal theories into the familiar types of moral philosophy – deontology, consequentialism (especially utilitarianism), and virtue ethics—and to associate liberalisms that are particularly preoccupied with character with the last.[21] The outlooks of, and intellectual frameworks created by, individuals can seldom be contained in such clear-cut categories.

Before proceeding, I will confront an initial stumbling-block: it is not clear what "liberalism" is, or that it is a useful category with which to work. (Those for whom such doubts cause no worries may wish to skip the next, rather discursive section).

I. Liberalism: What it Might Mean, and How (and Why) We Might Talk About It.

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20 See Rosenblatt, Sandel, and Ciepley, *ops cit.*

21 See e.g. Berkowitz op.cit, which also argues that thinkers often identified with deontology or consequentialism (Hobbes, Kant, and Mill) were closer to virtue ethics than is often recognized.

Not only is it not clear what liberalism is; it is also not clear *what sort of thing* it is, nor *how* we would go about evaluating different attempts at definition or characterization. Is liberalism "a political ideology, an ethical creed, an economic picture of society, a philosophy of politics"?[22] Or is it "an attitude, or a frame of mind,"[23] a temperament or type of character, a cultural inheritance, or the rationalization of self-interest? Or, more metaphorically or even metaphysically, is it "a specter that haunts Western political thought and practice," a "site of the modern," an "object of desire," or a "nightmare?"[24] And if it is unclear what (kind of thing) liberalism is, how can we know where and how it is to be found? Is it a mindset located in the thinking of individuals, a theory to be found in works of argumentation, a set of principles to be found encoded in law, a practice of politics to be found in action (and its institutional settings)?

Even were it possible to establish what sort of thing liberalism is, it is not clear how one could determine its content. Can, and must, one do so inductively? Should one identify what is most characteristic or essential to liberalism (or a "liberal" position or attitude) by what (if anything) is common to all, or the most, variants of liberalism; by what is most *distinctively* liberal (in the sense of distinguishing liberalism from other, proximate positions[25]); by what (different) liberals themselves took to be most essential or important in their views and program; or by what *we* think most decisively motivated or distinguished them?

Participants in debates about liberalism start out from very different assumptions about what kind of thing liberalism is, and thus how to identify, study, and characterize it; many of

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22 Fawcett, *Liberalism*, 1.

23 Rosenblatt, *The Lost History of Liberalism*, 8.

24 Duncan Bell, "What is Liberalism?" in Bell, *Reordering the World: Essays on Liberalism and* Empire (Princeton University Press, 2016), 62

25 Thus, for example, Alan Ryan's characterization of liberalism as anti-absolutist surely captures something crucial in what we typically term liberal thought; but this in itself does not allow us to distinguish liberalism from other positions that are anti-absolutist (e. g. civic republicanism).

them unwittingly conflate or mix different possibilities. They then go on to seek what is characteristic or distinctive in these different liberalisms through utterly different methods or criteria. As a result, confusion and dispute reign. It is all very good for the proliferation of scholarship (though not necessarily for intellectual progress, clarity, or significance).

Rather than answering the question of what liberalism is, or how one should go about determining what it is, I suggest that we begin from the question of *why,* or for what purpose, we should want to use the concept of liberalism (and therefore, what would count as a good account of liberalism). We might think that the obvious purpose of an attempt at definition, description, or interpretation is accuracy, truth, fidelity to experience. But while this may work when we are dealing with a particular thing (*this* person, *this* table, *this* hill), or with kinds for which there is some universally agreed-upon starting definition, liberalism is not such a thing. It is a concept; and there are many considerations that go into, and guide, the (re)formulation of concepts.[26] If there is not a way to fix the object of study of liberalism prior to the work of seeking an accurate characterization of liberalism, then we must take a different approach: we must determine what it is we wish to *do* in deploying the term, and attributing to it some content.

There are clearly many purposes aimed at in using the term; different approaches to determining what liberalism means, and the way liberalism is characterized, will work more or less well in relation to these purposes.[27] My own purpose here is, first, to "save" liberalism as an object of historical study and theoretical analysis. I also would like to save "liberal" as an

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26 For a useful discussion of the complicated topic of concept formation see John Gerring, "What Makes a Concept Good? A Criterial Framework for Understanding Concept Formation in the Social Sciences," *Polity* 31:3(1999), 357-393.

27 Duncan Bell, while strongly advocating a historicist approach and a "summative conception" of liberalism, acknowledges that different "interpretive protocols" are suitable for and serve different scholarly purposes. "What is Liberalism," 65-7.

evaluative or evaluation-laden term, such that we can evaluate different positions and actions as more or less liberal—or as being better or worse at *being* liberal (where good or better is understood as involving greater consistency or integrity—or, at least, less of a propensity to be self-undermining or self-contradictory).

Second, my goal is to use the terms "liberal" and "liberalism" as tools to try to pick out, and throw into a certain light, points of difference, disagreement and divergence – and sometimes of disapproval, bewilderment, and antagonism – that we can observe between people, and which strike many of *us*, and many of *them*, as significant. We do in fact typically map our political (and ethical) world through the use of concepts such as "liberal(ism)," which do not, on scrutiny, permit of exact and precise definition, but do allow us to pick out inclinations, sympathies, sentiments, values, commitments, perceptions, understandings, etc., which influence different agents to see, think about, and act in differing ways—ways which seem to us both recurrent, and important (if not important, we would not feel the need to highlight them in this way; if not recurrent, we would use more precisely localizing terms, such as Peelite, Fourierist, Menshevik). It is also worth noting, as Michael Walzer has recently stressed, that "liberal" serves as an adjective as well as a noun; that in addition to seeking to define an ideology or tradition or mindset or philosophy of liberalism, we might also (or, instead) seek to use "liberal" to distinguish between different ways of holding beliefs and acting on them, which reflect different mixtures of temperament, sentiment, and values (what I've labeled an "ethos").[28] This is, again, linked to the evaluative import of the use of the term: to identify certain ways of being as more or less liberal, or better or worse in relation to being liberal.

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28 Michael Walzer, *The Struggle for a Decent Politics: On "Liberal" as an Adjective* (Yale University Press, 2022); Joshua L. Cherniss, *Liberalism in Dark Times: The Liberal Ethos in the Twentieth Century* (Princeton University Press, 2021).

Taken together, the first and second purposes suggest that a good account of liberalism/liberal, at least for my purposes here, should function roughly like a Weberian "ideal type" drawing on observable features of the world, but abstracting and extrapolating from them to develop a picture more coherent, which can then be used as a tool for grasping and evaluating phenomena in relation to some question, interest, or purpose of the inquirers. Such an ideal type allows us to evaluate particular persons, institutions and actions as more or less liberal, or more or less consistently liberal. It also allows us to identify and talk about what I think is an important phenomenon—illiberal liberals, or illiberal forms of liberalism—in a way that, for example, Bell's "summative" approach seems incapable of doing.

There is a third, more specific goal, connected to the second, that the use of "liberal(ism)" here aims to serve: to motivate the main topic of the discussion, and allow it to make sense. The way I use the term liberalism – the content I give to it, the extension which I assign to it – must go some way to explaining why liberals may be taken, or take themselves, to be inclined to favor an institutionalist outlook; why there may also be reasons why they would want to go beyond institutionalism; and why going beyond institutions might pose particular problems for liberals, to which some responses will be better than others.

So, the account of liberalism offered here seeks to 1) broadly track, and offer a plausible way of bringing some loose coherence to a number of positions typically associated with liberalism by people in our discursive neighborhood – which for my purposes here means political theorists and historians of political thought; 2) pick out recurrent, significant political positions that strike us as relevant (including meaningful points of *disagreement* about politics); and 3) render comprehensible a push towards and pull away from reliance on institutional arrangements as opposed to personal judgment, character, and conduct. I hope that the following

account satisfies these conditions reasonably well – which is not to say that it is the only account that does so; nor that these conditions (particularly the third) should be taken as conditions that any good account of liberalism must fulfil.

II. Liberalism: A Working Characterization

There are three, closely connected, features which I want to highlight as typical of liberalism. First, liberals are particularly concerned with preserving individual liberty as a main goal of, and condition for, politics; this goal may not always have absolute priority, but it is always present as a significant consideration. Judith Shklar's definition of liberalism as dedicated, above all, to the protection of the liberty of "[e]very adult … to make as many effective decisions without fear or favor about as many aspects of her or his life as is compatible with the like freedom of every other adult" is contestable.[29] But it captures two key elements – an insistence on *equal* liberty, and the connection of liberty to *choice* in matters that particularly pertain to an individual's living of their own life—that emerge as prominent, distinctive features of most major forms of what has been identified as liberalism over the past two centuries; and it indicates important features that distinguish liberalism from its predecessors and rivals.[30] Liberals are not unconcerned with the claims of groups, including claims to forms of freedom that are specific to groups (such as national self-rule). But the liberty, and other crucial claims (such as equality, justice, dignity, etc.) of individuals takes a special priority; this marks liberalism as a distinctively modern tendency, inspired by notions of the dignity of individual

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29 Judith N. Shklar, "The Liberalism of Fear," 21. Bell challenges this definition by contrasting it with others from Ronald Dworkin, Jeremy Waldron, Gary Gerstle, and John Dunn; Bell, "What is Liberalism," 64.

30 It is not surprising that these elements are stressed by authors geographically, temporally, and culturally close to Shklar–notably, John Rawls and Ronald Dworkin and, in a rather different register, Isaiah Berlin, who defined "Liberalism" as "a society in which the largest number of persons are allowed to pursue the largest number of ends as freely as possible." Berlin to Herbert Elliston, 30 December 1952, in Berlin, *Enlightening: Letters 1946-1960,* ed. Henry Hardy and Jennifer Holmes (Chatto and Windus, 2012), 350.

conscience and the desirability of self-authorship or self-enactment as ways of life.[31] The individual liberty that liberals seek to safeguard may (and often does) include the liberty to participate in politics, so as to preserve citizens against being reduced to the condition of passive subjects, unable to assert themselves, or demand accountability, responsiveness, and respect from their political rulers. Nevertheless, liberals tend to prioritize (to an extent greater than those identified with other political categories) what Constant termed "the liberty of the moderns." While different liberals weight different liberties differently, there is a recurrent emphasis on freedom of conscience or thought, and of expression, as paramount.[32]

Second, more negatively, liberals see the protection and promotion of individual liberty as requiring the limitation of power. Liberal politics is limited politics—institutionally, normatively, ethically. Liberals embrace institutionalized limits such as the rule of law (enforced through an independent judiciary), charters of guaranteed individual rights; the selection and removal of political officials by popular vote; an internally diverse civil society, endowed with protections against the dictates of the state, and with the power to criticize or resist the state. Beyond this, liberalism inculcates norms of recognizing such limits as legitimate and desirable. It may also go beyond institutions, internalizing acceptance of limits in undertaking political action as a feature of disposition or a consideration shaping judgment. Against "the ruthless, the unbridled will," which recognizes no check or limitation, liberals champion a spirit of mutual forbearance and toleration.[33]As Michael Walzer has argued, this is what distinguishes liberal democrats, socialists, egalitarians, republicans, nationalists, feminists, etc., from the non-liberal,

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31 See Ryan, *The Making of Modern Liberalism*. On self-enactment and self-making as liberal ideals see Flathman, *Reflections of a Would-Be Anarchist*; idem., *Willful Liberalism* (Cornell University Press, 1992).

32 Ryan, *The Making of Modern Liberalism,* 8, 29-31.

33 Learned Hand, "The Spirit of Liberty," (1944), in *The Spirit of Liberty: Papers and Addresses of Learned Hand*, ed. Irving Dilliard, 2nd edition (Knopf, 1953, 189-90.

illiberal, o anti-liberal sort.[34] The former, dedicated to the principles and goals of democracy, socialism, equality, republicanism, national self-determination, feminism, and so on, nevertheless place limits on the pursuit of these goals and imposition of these principles—so that principles, goals, systems, and ideals do not "bear down too cruelly" on the intractable individuality and difference, and precious freedom and dignity, of individuals.[35]

In addition to being expressed in both "institutional" or "ethical" forms, these limits can be "hard" or "soft." "Hard" limits, whether institutional or ethical, place firm breaks on what agencies or individuals are able to do—or permit themselves to do. On the "ethical" level, "soft" limits involve an element of inner reluctance, worry, or caution. Temperamentally, liberals are people who are troubled by certain features of their own (democratic, socialist, republican, conservative, feminist, environmentalist, etc.) impulses or aspirations, because they recognize their potential to threaten individual liberty. So, for example, those we might call "social liberals," or liberal social democrats, even as they broadly embrace the welfare state, will also feel the force of critiques of the welfare state as posing threats to individuality and liberty by empowering officials and rendering recipients of aid supplicants to the government.[36] This may lead to differences in policy preferences between liberal and non-liberal social democrats, or to different ways of *holding* the same basic political preferences. The institutional counterpart of this involves creating conditions where objections that might evoke reluctance, worry, or caution are allowed to arise. This recalls Robert Frost's quip that a liberal is one "too broadminded to take his own side in a fight," and Learned Hand's identification of "the spirit of liberty" as "the spirit which is not too sure that it is right"—*and* which "seeks to understand the mind of other

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34 Walzer, *The Struggle for a Decent Politics*.

35 The quote is from Isaiah Berlin to Herbert Elliston, op. cit., 350.

36 Cf. Ryan, *The Making of Modern Liberalism*, 24-7, 33-5.

men and women," and "weighs their interests alongside its own without bias."[37] This reflects a certain egalitarianism, and sense of fairness or reciprocity, which has often emerged as an important feature of liberal thought: just as liberals impose limits on the ability of others to assert themselves and pursue goals, so they accept and enforce these limits on themselves.

The first and second elements of liberalism identified above are closely connected; their connection is strengthened by a third element, which is less a matter of moral commitment or practical prescription than a perception of reality (though this perception is intertwined with valuation). This holds that human societies are marked by variation, differentiation, divergence, and conflict (whether this is a perennial feature, or specific to what is typically called "modernity"). This variation, etc., is seen as valuable, since an "abundant social and political plurality" is a necessary condition for the widest possible freedom of action,[38] as well as an inescapable consequence of it.[39] Eliminating variety and conflict is thus unrealistic, undesirable, and/or catastrophically costly. Liberals "rejoice" in diversity, even in discord, because "it is in diversity alone that freedom can be realized ... [a] free society is not one in which people are merely allowed to make effective social choices among a variety of alternatives, but one in which they are encouraged to do so."[40] To straighten-out "the crooked timber of humanity"[41] would require far too much hacking and burning, in the course of which too much of the material out of which human flourishing is made would be destroyed. And besides that, to hack and burn for the sake of straightness is not actually to achieve straightness—it is to hack and burn human

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37 Hand, "The Spirit of Liberty," 190.

38 Flathman, *Reflections of a Would-Be Anarchist*, xvii; see also ibid., 31-46, for development of this theme.

39 As Rawls recognized in stressing "the fact of reasonable pluralism" as a basic condition of modern politics. See particularly Rawls, *Political Liberalism* (Columbia University Press, 1993

40 Judith N. Shklar, *Legalism: Law, Morals, and Political Trials* (Harvard University Press, 1964)*,* 5-6.

41 To borrow Isaiah Berlin's borrowing from Kant.

beings.[42] But if difference and conflict remain (even if they can be moderated, for the sake of avoiding instability, destruction, terror, hatred., and pain), then human beings will not coexist seamlessly. They will collide; they will trespass on one another. So preserving liberty requires the construction of barriers—and of institutions, procedures, rules that will serve to absorb shocks and mediate conflicts. Conflict is endemic to society; it is also the source of much human creativity, and the stuff of a healthy politics. It cannot be eliminated, should not be repressed— but should be channeled.

We can see these three elements coming together in what are taken to be characteristic features of liberal thought, such as (to take one prominent example), the invocation of rights as a central feature of politics. The rights with which liberals are concerned are typically primarily rights to be claimed and enjoyed by individuals; their function is to protect individuals from the power of others, by granting individuals defined, limited, but robust powers, permissions, and voices—and guaranteeing avenues for asserting these, through both the law and a public discourse in which asserting rights has resonance, and the charge of violating rights carries a stinging rebuke. Liberals "take rights seriously" as a practical matter, even though they define, derive, and defend rights from vastly different theoretical positions and in different registers. Constitutionalism, representative government, the multiplication of (political, social, and economic) centers of power and arrangement of these powers as separate but overlapping and sometimes conflicting, the mental and legal dividing of the world into different realms and facets, all similarly serve to preserve and mediate conflicts, limit power and protect individuals, allowing for the preservation of variety and choice.

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42 To echo the proto-liberal Sebastian Castellio: "To kill a man is not to defend a doctrine. It is to kill a man." Castellio, *Contra Libellum Calvini* (1562), quoted in Perez Zagorin, *How the Idea of Religious Toleration Came to the West* (Princeton University Press, 2003), 119.

The commitment to individual freedom and social, political, and intellectual pluralism, as well as the fear of unfettered power, suggest why liberals might prefer to stick to prescribing an institutional framework in which individuals and groups can enjoy the security and opportunity afforded by equitable, legible rules and procedures—while forbearing from demanding or prescribing too much in the way of conduct or character-formation. Yet liberals have rarely, in fact, left it entirely at that.

III. Liberalism Beyond Institutions: Reasons and Problems

A. *The Nineteenth-Century Background*

It is by now well-established that the picture of liberals as morally neutral or apathetic, as celebrating "possessive individualism," acquisitiveness, and egotism, as coldly legalistic and procedural, as restricted to considerations of "the right" and not "the good," as concerned purely with the protection of the "negative" liberty of individuals against the overweening exercise of power by state agencies, poorly matches nineteenth-century liberalism as a whole.[43] Leading liberals of the nineteenth century carried forward, albeit in significantly modified ways, earlier Aristotelian ideas about the importance of shaping individual character so as to allow for human flourishing, and Romantic and notions of *Bildung,* as well as Ciceronian/civic humanist concerns

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43.Cf. the oppositions cited, and the picture of liberalism contested by, Andreas Kalyvas and Ira Katznelson, *Liberal Beginnings: Making a Republic for the Moderns* (Cambridge University Press, 2008), 15. This point hardly needs making in the case of figures such as Humboldt, Tocqueville, Mill, or Green. It is also a major contention of recent (and not-so-recent) scholarship on Constant; see e.g. Stephen Holmes, *Benjamin Constant and the Making of Modern Liberalism* (Yale University Press, 1984); Rosenblum, *Another Liberalism;* Biancamaria Fontana, *Benjamin Constant and the Post-Revolutionary Mind.* (Yale University Press, 1991); Tzvetan Todorov, *A Passion for Democracy: Benjamin Constant*. Translated by Alice Seberry. (Algora Publishing, 1999); Helena Rosenblatt, *Liberal Values: Benjamin Constant and the Politics of Religion.* Cambridge University Press, 2008); Bryan Garasten. "Religion and the Case against Ancient Liberty: Benjamin Constant's Other Lectures." *Political Theory* 38, no. 1 (February 2010): 4–33; and the chapters by Garsten, Gerald Izenberg, Etienne Hoffmann, Laurence Dickey in Helena Rosenblatt, ed. *The Cambridge Companion to* Constant (Cambridge University Press, 2009). The need for this revision arose partly from general neglect or dismissal of Constant; partly from a simplification of Constant's position on the dichotomy between "ancient" and "modern" liberty; and partly from the view that to be a defender of "modern" (or negative) liberty necessarily aligns one with utilitarian, anti-perfectionist, and/or ethically neutral or skeptical variants of liberalism. As I have remarked, and suggest further below, this view is mistaken.

with cultivating civic virtue and dedication to the commonweal. This was reflected in the fact that they were concerned not only (or, sometimes, primarily) with forms of government or the content of legislation, but with those forces and resources that would make individual and communal moral improvement possible: religion, civic associations, literature, and, perhaps above all, education.[44] Indeed, political practices were themselves often evaluated in terms of their contribution to personal development. Many nineteenth-century liberals not only anticipated more recent arguments that the "moral distinctiveness" of liberal-democratic institutions "sponsors distinctive moral phenomena in the life of society," which are "traceable" to these governmental forms;[45] but asserted that the "impression" made by the distinctive "spirit" of liberal institutions on those living in and under them was "one of the most important parts of" of these institutions.[46] Thus, for example, some liberals defended (and advocated extending) rights of political participation because such participation was a necessary condition for achieving individual flourishing; and embraced parliamentary government as a means to forming desirable characters on the part of the political leaders—or, indeed, the population as a whole.[47] At the same time, even as they were concerned with practical projects of institutional design, many nineteenth-century liberals also recognized that the relationship between institutions and the "character" or "spirit" of a nation or people, was complex; the causal influence ran both ways. Indeed, some liberal social theorists noted that it was not at all clear how far (or whether)

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44 See Kahan, *Aristocratic Liberalism*, 125-34; Rosenblatt, *The Lost History of Liberalism*, 134-5, 152-5, 194-219, 234-5.

45 Kateb, *The Inner Ocean*, 39.

46 Mill, *Considerations on Representative Government* (Parker, Son, and Bourn, 1861), 190 (Chapter 10, "Of the Mode of Voting").

47 See Kahan, *Aristocratic Liberalism*, 103. Concern with the contribution of political forms and processes for personal development can be seen—to take just more familiar, "canonical" sources—in Tocqueville's extolling of small-scale, local democracy in New England; Mill's treatment of the case for, and suggestions for the perfection of, representative government; and Weber's advocacy of parliamentary leadership and critique of bureaucracy. Positing a "political" conception of liberalism against the "ethical" one propounded by Rosenblatt (as Selinger and Conti do in "The lost history of *political* liberalism") thus rests on a shaky dichotomy.

societies could be transformed through institutional innovation, as opposed to institutions being necessarily determined by prior social or cultural conditions. At the very least, they acknowledged that institutions had to be suited to the characters of the people operating in and living under them, and these characters were not formed through purely institutionalized forces.[48]

While it is important not to underestimate the ethical dimension of earlier liberalism, there are also two reasons to approach the revision of our picture of liberalism through the retrieval of a more thickly ethical liberalism with some caution. First, historically there *were* proponents of a simplified or vulgarized liberalism, whom the caricature of liberalism as proceduralist, materialist, acquisitive, possessive, etc. does fit. Much depends, as ever, on *which* liberals one attends to.[49] Secondly, over-emphasis on liberalism's ethical demandingness opens the way for another line of critique, or source of anxiety. Nineteenth-century liberalism may appear dismayingly demanding, elitist, and assured in asserting possession of knowledge of what human flourishing and moral virtue are and are not—and all too willing to discipline, subjugate, and exclude those who do not fit the ideal of virtue or capacity, or meet the demands of morality or civilization.[50] Liberals may evade the charge of liberal moral laxity, only to fall prey to one of dogmatism, intolerance, and even designs to the impose a new, crypto-totalitarian orthodoxy.[51]

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48 Particularly notable cases are de Stael's *Considerations on the Principal Events of the French Revolution*; Tocqueville's *Democracy in America;* and Mill's *Considerations on Representative Government*,

49 Recognizing this, many historians of liberalism make chronological concessions, suggesting that liberalism underwent a significant shift in the twentieth century, so that after World War II these earlier characteristics were eclipsed by a morally and civically "thin" liberalism that fully deserves the critiques leveled against it by communitarian, romantic, perfectionist, and other critics. See e. g. Rosenblatt *and* Ciepley *op. cit*. I challenge such accounts below.

50 See Alan Kahan *Liberalism in Nineteenth Century Europe: The Political Culture of Limited Suffrage* (Palgrave-Macmillan, 2003); Gianna Englert, *Democracy Tamed: French Liberalism and the Politics of Suffrage* (Oxford University Press, forthcoming). The history of liberalism and imperialism is now well-trodden ground; despite their differences, Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (University of Chicago Press, 1999) and Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France (*Princeton University Press, 2005) agree in depicting mid-nineteenth century liberalism's embrace of

Second, nineteenth-century liberals were motivated to move beyond institutional frameworks, to identify what kinds of lives were worth living and what kind of characters desirable to develop, by not only high aspirations, but anxiety. This anxiety had many sources and forms. There was anxiety about the degradation of human personality and life by narrow egotism, by material cupidity, drudgery, or misery, by ignorance or indulgence, by snobbery or an excessive egalitarianism that leveled ethical standards as well as social distinctions. There was anxiety, too, about civilizational decline, a loss of greatness or vitality. There was also anxiety that individual freedom itself would be lost—that individuals would be crushed by the weight of society, or left powerless and supine before resurgent political tyranny—unless the right kind of moral self-respect and fortitude could be cultivated.[52] Institutions might prove insufficient to sustain themselves, or protect against the dangers of both disorder and despotism. Furthermore, institutions—insofar as they were bound up in practices of authoritative command, rule following, sanction and, ultimately—were all too prone to become despotic and dehumanizing. Some, more romantically-inclined liberals also fretted that the impersonal, rule-governed,

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empire as connected to its moralizing (or ethically disciplinary) features. The moral rigor and mix of civilizational self-confidence and anxiety of later-nineteenth-century liberals fostered the proto-authoritarianism of some Idealist liberals, and the liberal embrace of eugenics (though there were liberal opponents of eugenics as well). See Rosenblatt, *The Lost History of Liberalism,* 235-8; Michael Freeden, "Eugenics and Progressive Thought: A Study in Ideological Affinity," *The Historical Journal* 22:3 (1979), 645-71

51 See e.g. Maurice Cowling; *Mill and Liberalism* (Cambridge University Press, 1963); Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton University Press, 1999). Of course, there is no need for critics to choose between the charges of excessive tolerance and permissiveness, and intolerance and promotion of conformity—both because the evolution of tendencies of thought and the implication of political practices can be paradoxical; and because such critics are not necessarily hampered by concern for coherence or accuracy.

52 Many of these anxieties are brought out in Kahan, *Aristocratic Liberalism*, especially chapter 5. They will be familiar to readers of *Democracy in America* and *On Liberty* – as well as Mill's *Auguste Comte and Positivism* and *On Representative Government*.

routine, and frequently transactional quality of institutions might displace motivations of affection, attraction and aspiration.[53]

Such fears were expressed by liberals even during the "golden age of security,"[54] when liberal institutions seemed to be fairly well-established as legitimate and functional. Twentieth-century history offered plentiful lessons in the insufficiency of liberal institutions to secure liberal polities.

B. Twentieth-Century Crises and Perplexities

Liberalism went through a number of vicissitudes in the early decades of the twentieth century, some of which encouraged, others of which undercut, institutionalism. One important development was the crisis of faith in the worldview—composed of intertwined assumptions about human reason, moral psychology, and historical development—that Richard Bellamy has termed "ethical liberalism": the belief that liberal institutions, by granting individuals autonomy and thereby (it was assumed) securing conditions for moral maturation, would ultimately produce a "cooperative society of mutually improving individuals."[55] This faith ran up against two powerful challenges. First, the enormity of the reversions to barbarism that marked the twentieth century made a mockery of notions of moral progress and human rationality, to the

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53These last two elements run through Constant's thought, from his scathing depiction of modern (as distinct from ancient) militarism to his writings on religion, in which, as Bryan Garsten has suggested, "[r]eligious sentiment is meant to starkly contrast with the neatly defined parameters of one's economic interests …[and] to defy authority, including the authority of anyone who would seek to define it." "Constant on the Religious Spirit of Liberalism," in Helena Rosenblatt, ed. *The Cambridge Companion to Constant* (Cambridge University Press, 2008), 286–312, at 298; see also Constant, *The Spirit of Conquest and Usurpation* (1814) and *Principles of Politics Applicable to All Representative Governments* (1815), in *Political Writings* ed. Biancamaria Fontana (Cambridge University Press, 1988), particularly at 51-2, 56-7, 60-62, 72-7, 81 (*The Spirit of Conquest*) 110-14, 126 (*Usurpation*); and 277-81 (*Principles*); and, for further commentary, Helena Rosenblatt, *Liberal Values: Benjamin Constant and the Politics of Religion* (Cambridge: Cambridge University Press, 2008).

54 Stefan Zweig, *The World of Yesterday* (University of Nebraska Press, 1964 [1943]), 1.

55 Richard Bellamy, *Liberalism and Modern Society: An Historical Argument* (Pennsylvania State University Press, 1992), 3.

point that Judith Shklar asserted that "no reasonable person can today [1956] believe in any 'law' of progress," adding that the optimism of earlier liberalism was "dead."[56] Second, many liberals came to recognize not only the persistence and plausibility of deep moral disagreement, and the diversity of experience and interest that marked complex societies, but also the dangers inherent in too much consensus or discipline. This, too, reflected historical shocks: the horror at the prospect of attempts, through propaganda, conditioning, terror and force, to remake the character of whole populations into a more perfect—or rigidly disciplined and constrained—whole, culminating in the great totalitarian experiments.[57] In reaction, liberals increasingly came not only to accept diversity and disagreement as ineradicable features of modern society, but to "rejoice" in the persistence of diversity and disagreement, because a "free society is not one in which people are merely allowed to make effective social choices among a variety of alternatives, but one in which they are encouraged to do so"—which both requires, and produces, a range of truly different, and even divergent, alternatives.[58]

One response to the combination of the loss of faith in historical progress, and growing skepticism—and indeed fear, indignation, and distaste—toward ethical certainty and homogeneity, was to reformulate liberalism as a theory of institutions and procedures—but to now stress that the purpose of institutions, and the most they could reliably do, was to effectively mediate conflicts, and not to form ever more perfect citizens. This contributed not only to an increased emphasis on institutional design and administration as against the formation of

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56 Shklar, *After Utopia: The Decline of Political Faith* (Princeton University Press, 1957), vii, 3. The crisis of belief in historical progress is, of course, a well-attested and central element in twentieth-century thought (though, rather than a single crisis, it is probably better to think in terms of a waxing and waning (and waxing and waning again) of historical skepticism or pessimism over the course of the century; for this claim, see Karl Dietrich Bracher, *The Age of Ideologies: A History of Political Thought in the Twentieth Century* [St. Martin's Press, 1984]).

57 On this see Jan-Werner Müller, *Contesting Democracy: Political Ideas in Twentieth-Century Europe* (Yale University Press, 2011), especially chapters 1-3.

58 Shklar, *Legalism, 5-6.*

character and judgment; but a related (though distinct) turn from a mode of thinking about, and justifying, institutions and policies that appealed to moral ideals, to one marked by a more "scientific" or "neutral" emphasis on efficiency and rationality.[59]

But this was not the only line of response; historical accounts which present a sea-change from a more ethically ambitious to a more minimalist and proceduralist politics neglect a number of thinkers who continued to stress both the moral ideals and demands of liberalism—and who recognized that recent events had not only undermined more confidently morally perfectionist liberalism, but also starkly revealed the limits of reliance on institutions and procedures.

Following World War I, liberal constitutions proliferated; few lasted, and even those that survived *de jure* had little or no *de facto* significance (the Soviet Constitution was in many respects a most liberal document).[60] What Hermann Müller, Germany's Social-Democratic Chancellor, called "democracy without democrats"[61] proved unsustainable. As Learned Hand (himself a constitutional scholar and judge) mused in 1944, "I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes …

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59 There are distinct variants of this story, which locate the shift in different places and times, attribute it to different causes, and pick out different elements in the changing character of liberalism. Bellamy locates this response in such late nineteenth/early twentieth-century thinkers as Weber and Pareto (*Liberalism and Modern Society* 121-40, 165-216). A number of historians of American political thought—and political theorists following them—identify a turn to "moral minimalism," "hyperpluralism," and "neutralist" proceduralism in America from the late 1930s on (Ciepley, *Liberalism in the Shadow of Totalitarianism*, 4-34, 183-217, 262-301, 315-26). For other variants of this account (positing varying timelines and emphasizing different causes and features of this shift) see *inter alia* Edward A. Purcell, Jr. *The Crisis of Democratic Theory: Scientific Naturalism and the Problem of Value* (University Press of Kentucky, 1973); Alan Brinkley, *The End of Reform: New Deal Liberalism in Recession and War* (Knopf, 1995); Brinkley, *Liberalism and Its Discontents* (Harvard University Press, 1998); Sandel, *Democracy's Discontent*; Rosenblatt, *The Lost History of Liberalism*, especially 265-79; K. Sabeel Rahman, *Democracy Against Domination*. New York: Oxford University Press, 2017); Joseph Fishkin and William E. Forbath, *The Anti-Oligarchy Constitution* (Harvard University Press, 2022).

60 On the brief golden dawn of liberal-democratic constitutionalism after World War I and its quick demise, see Mark Mazower, *Dark Continent: Europe's Twentieth Century* (Allen Lane, 1998), chapter 1.

61 Quoted ibid., 23.

Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it."[62]

Reliance on institutions proved insufficient, first, because institutions could not be self-running: they required political actors to make them work. While they stressed the all-too-evident limits of human foresight and control, many post-war liberals also insisted on the importance of human agency—of the actions of individuals, and the characters and judgments that shaped those actions.[63] The framework offered by institutions, while useful, could not substitute for the *judgment* needed to guide choices about conduct in particular situations; and an over-reliance on institutional guidelines could lead to an atrophy of a capacity for judgment, and a loss of a sense of personal integrity, which were often necessary guards against both folly and inhumanity.[64]

Institutions are insufficient, furthermore, not only to sustain themselves, but to reform or transform themselves in the face of the mutability and instability of human affairs. The exercise of judgment, imagination, and will is always necessary to make institutions work; but this is especially true in times of rapid, dramatic change. This was readily apparent to liberals in the interwar period. Not that this insight was new to liberal thought. The historicism deeply imbibed by an earlier generation of liberals (often labeled "New Liberals" – many of whom were, tellingly, associated with Progressivism in America) had already accustomed liberal thinkers to

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62 Hand, *The Spirit of Liberty*, 189-90.

63 See e.g. Raymond Aron, *The Opium of the Intellectuals*, trans Terrence Kilmartin (Secker and Warburg, 1957 [1955]); Isaiah Berlin, "Historical Inevitability" (1953), in *Liberty,* ed. Henry Hardy (Oxford University Press, 2002), 94-165; Sidney Hook, *The Hero in History: A Study in Limitation and Possibility* (Secker and Warburg, 1945), among other works.

64 The classic discussion of the morally-degrading effects of a "thoughtless" reliance on rules is, of course, Hannah Arendt's *Eichmann in Jerusalem: A Report on the Banality of Evil* (Viking, 1963). A concern for the deformation of judgment, erosion of agency and responsibility, and enervation of spirit by the particular form of institutionalism that is modern bureaucracy is also a familiar hallmark of Max Weber's account of modernity.

accept the need for ongoing institutional innovation to adapt to evolving historical conditions.[65]

The institutions of laissez-faire economics embraced by many early liberals were subjected to

particular criticism as the decades wore on, and especially after the Great Depression of 1929 hit.

But parliamentarianism and legalism also came in for criticism. More disaffected and pessimistic

liberals (some of whom, in their discontent, drifted into anti-liberal politics) had already been

warning of the corruption, complacency, slowness, and moral decadence of parliamentary

politics in the later 19th century.[66] Witnessing the repeated failure of liberal parties and

institutions to withstand the onslaught of totalitarian movements in the interwar years, liberals

such as Raymond Aron suggested that not only laissez-faire economics, but the effectively

"conservative" institutions of liberal (parliamentary) democracy should be reconsidered; what

was important was to preserve the ideals of liberalism—which might mean adapting certain

policies of the totalitarian regimes (a strong executive, mass mobilization), but employing them

in a drastically different "spirit."[67]

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65 See L. T. Hobhouse, *Liberalism* (Oxford University Press, 1944 [1911]); John Dewey, *Liberalism and Social Action* (G. P. Putnam, 1935). This historicism—and sense of the threats to and demands of liberty as undergoing historical evolution and vicissitudes—is already apparent in Mill, and indeed Constant. However, Hobhouse, Dewey, and their contemporaries applied this sense to liberalism itself: liberalism was to be seen, not as representing a particular phase in the development of human society, but an ideal and a force that itself evolved alongside society.

66 On these tendencies in the French context, see H. S. Jones, *The French State in Question: Public Law and Political Argument in the Third Republic* (Cambridge University Press, 1993). Weber offers both a revealingly representative, and distinctly individual, expression of this tendency, critiquing the decadence of actually-existing parliamentarianism while advocating an idiosyncratically agonistic reimagining of parliamentarianism. See Weber, "Parliament and Government in Germany Under a New Political Order," (1918) and "The Profession and Vocation of Politics" (1919), in Weber, *Political Writings,* ed. and trans. Peter Lassman and Ronald Spiers. (Cambridge University Press, 1994), 130-271, 309-68; see also Selinger, *Parliamentarianism from Burke to Weber.*

67 See Raymond Aron, "Democratic and Totalitarian States" (1939), in Aron, *The Dawn of Universal History: Selected Essays from a Witness of the Twentieth Century*, ed. Yair Reiner, trans. Barbara Bray. (Basic Books, 2002), 163-76; Aron et. al. "Democracy and Totalitarianism: Discussion of a Paper by Raymond Aron" (1939), trans. Anthony M. Nazarro, *Salmagundi* 65 (1984), 40-50. For a more detailed explication of Aron's argument in this early period, as well as his later, nuanced (and ambivalent) views on the need to balance (liberal) principle and (potentially authoritarian) pragmatism in "emergency" conditions see Cherniss, *Liberalism in Dark Times*, Chapter 4. On Aron's political views, and particularly his reformulation of liberalism and response to anti-liberal politics, in the interwar period see Iain Stewart, *Raymond Aron and Liberal Thought in the Twentieth Century* (Cambridge University Press, 2020), particularly chapters 1 and 3.

The dysfunctions of traditional liberalism, and its apparent disadvantage in competition with anti-liberal movements and programs, were traced not only to failures of efficacy, but also to an insufficiency of inspiration. Institutions simply failed to provide not only guidance, but also the motivation, needed to sustain commitment to them—or to bolster individuals through the hardness of life in modern liberal societies. This was particularly the case because liberalism was actually highly morally and emotionally demanding—a point often stressed by liberals in the mid-twentieth century. Here the tone was set by José Ortega y Gasset (a figure all-too-rarely discussed in histories of liberalism[68]). Ortega regarded liberal democracy as representing "the loftiest endeavour towards common life," because it "carries to the extreme the determination to have consideration for one's neighbor."[69] It was the *liberal* element in liberal democracy that was the source and expression of this lofty, rigorous idealism. For it was liberalism that required the individual to "maintain a severe discipline over himself"[70] in his interaction with others, and required the state—or the ruling element in society, which in a democracy meant the majority— to limit itself "even at its own expense, to leave room … for those to lie who neither think nor feel as it does." Liberalism was, thus

> the supreme form of generosity… the noblest cry that has ever resounded in this planet. It announces the determination to share existence with the enemy; more than that, with an enemy which is weak. It was incredible that the human species should have arrived at so noble an attitude, so paradoxical, so refined, so acrobatic, so anti-natural. Hence, it is not to be wondered at that this same humanity should soon appear anxious to get rid of it. It is a discipline too difficult and complex to take firm root on earth. Share our existence

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68 There is no mention of Ortega in Ryan's *The Making of Modern Liberalism* or Rosenblatt's *The Lost History of Liberalism*; Fawcett omits Ortega from his broad-tent discussion of liberalism, including him in a sequel volume on Conservatism. Nor have many recent theorists of liberalism drawn on Ortega; Flathman is a notable exception. Ortega's place in the history of liberal thought in the twentieth century has begun to be recovered in recent and forthcoming work by such younger scholars as Alec Dinnin, Brendon Westler, and Nayeli Riano.

69 Ortega y Gasset, *The Revolt of the Masses* (W. W. Norton 1932 [1930]), 76.

70 Ibid., 17.

with the enemy! Govern with the opposition! Is not such a form of tenderness beginning to seem incomprehensible?[71]

Ortega's work still breathed the exalted spirit (and elitism) of the nineteenth century, and so might be regarded as a far cry from the "neutralist," negative liberalism of the post-war period. He certainly seems distant from Judith Shklar, the epitome, if ever there were one, of post-war, anti-totalitarian, "negative" and "minimalist" liberalism (even if scholars have recently become more aware of her early critiques of post-war conservatism, and the radical impulses and potential of her later work[72]). For all her sensitivity to moral psychology and personal character, Shklar was fearful of putting too much faith in human virtue. Insofar as she proposed a positive program (which was seldom very far), it often seemed to amount to a Madisonian project of constitutionalism, individual rights, and political pluralism.[73]

Yet Shklar also recognized that liberalism was not just "a set of political procedures," but an ethical project and "ethos of determined multiplicity." Like Ortega, she stressed that the refusal to impose "credal unanimity and uniform standards of behavior" demanded "an enormous degree of self-control. Tolerance consistently applied is more difficult and morally more demanding than repression … Far from being an amoral free-for-all, liberalism is, in fact, extremely difficult and constraining": for it "puts enormous burdens of choice upon all of us"

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71 Ibid.,76-7

72 See Giunia Gatta, *Rethinking Liberalism for the 21st Century: The Skeptical Radicalism of Judith Shklar* (Routledge, 2018); Samuel Moyn, "Before—and Beyond—The Liberalism of Fear," in Samantha Ashenden and Andreas Hess, eds. *Between Utopia and Realism: The Political Thought of Judith N. Shkklar* (University of Pennsylvania Press, 2019), 24-46; see also Andreas Hess, *The Political Theory of Judith N. Shklar: Exile from Exile* (Palgrave, 2014), for an intellectual biography; and Edward Hall, "Complacent and Conservative? Redeeming the Liberalism of Fear," *Journal of Politics*, forthcoming, for a robust rebuttal to readings of Shklar's later "liberalism of fear" as conservative or anti-political.

73 See Judith N. Shklar, *Ordinary Vices* (Harvard University Press, 1984), 22–3, 233–7, 242–5; idem., *Montesquieu* (Oxford University Press, 1987), 51–2.

and "imposes extraordinary ethical difficulties," which are far too demanding "for those who cannot endure contradiction, complexity, diversity, and the risks of freedom." [74]

This was an important point for Shklar—and the source of a problem which she raised without resolving. While liberalism's success may depend on the prevalence of certain dispositions and sorts of conduct, liberal theory, Shklar noted, refuses to foster these features "as models of human perfection"—and liberal policy refrains from imposing them through coercion or systematic conditioning. The liberal state "can never be didactic in intent": it should not engage in a directly educative project of enforcing beliefs *or* "creating specific kinds of character"—for opposing "the educative state" was liberalism's founding *raison d'etre*. Yet liberalism *did* require well-informed, self-directed citizens, possessed of their "fair share of moral courage, self-reliance, and stubbornness to assert themselves effectively" against tyrannical governments. Liberal polities need a certain kind of citizen, and indeed must seek to foster such a civic character—but not through *direct* imposition. Following her friend George Kateb, Shklar suggested a response of institutional indirection. After all, "no system of government, no system of legal procedures, and no system of public education is without psychological effect." The "experience of politics according to fair procedures and the rule of law" would *indirectly* educate the citizens in "habits of patience, self-restraint, respect for the claims of others, and caution," even though their "overt purpose" was purely political. Shklar thus resorted to a sort of pedagogic doctrine of double effect. Yet, in the end, this redoubtable skeptic had to acknowledge that things might not work out so comfortably; all liberalism could

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74 Shklar, *Ordinary Vices*, 5-6, 248–9. Isaiah Berlin put a similar point in characteristically rueful terms: maintaining the self-restraint and balance demanded by liberal politics is "a very difficult and a very undramatic thing to do; it can be tedious and the tension is not good for the nerves." Berlin, "The Lessons of History," in Joshua L. Cherniss and Steven B. Smith, eds. *The Cambridge Companion to Isaiah Berlin* (Cambridge University Press, 2018), 276.

do was to affirm "that if we want to promote political freedom, then this is appropriate behavior," and leave individuals to rise to the challenge—or not.[75]

Shklar's self-denying ordnance for liberalism—liberalism is in principle prohibited from seeking to instil those features of character on which it depends via direct indoctrination—is compounded by a further worry, posed by her fellow Rigan-born refugee, Isaiah Berlin. In 1952 Berlin received a letter from the Washington-based liberal anti-Communist journalist Herbert Elliston, who wrote that "It seems to me that we need a new faith, a new philosophy of life …Surely the Commies have taught us that."[76] Berlin, in his response, demurred. First, he observed, nothing was less likely to foster faith than "perpetual reiteration of the fact that we are looking for one, must find one, are lost without one, etc. etc." Emotional conviction—or, for that matter, virtuous character—could not be called into being by hortatory proclamation. Second, Berlin warned that it was a mistake to think that "the answer to Communism is a counter faith, equally fervent, militant, etc. because one must fight the devil with the devil's weapons," because there would be "no point in defeating the other side if our beliefs at the end of the war are simply the inverse of theirs, just as irrational, despotic, etc."[77] This reflected Berlin's belief that far from being too much, there was 'all too little disbelief," and all too much "unreasoning faith" and "blind intolerance towards scepticism" in the political world of the Cold War.[78] Against this, Berlin called for "a greater degree of self-examination, less organised, precipitate, uncritical mass pursuit of things however intrinsically noble, in which too much is trampled under foot, too little is allowed for the gap between theories and the infinite complexity of

75 Shklar, "The Liberalism of Fear," 33-4.

76 Elliston to Berlin, 8 December 1952, Isaiah Berlin Papers, Bodleian Library, Oxford, Box 131, f. 196.

77 Berlin to Elliston, *Enlightening* 349.

78 "Political Ideas in the Twentieth Century," in Berlin, *Liberty*,, 83, 86, 90.

individuals"[79] and insisted on the value of 'the inestimably precious gifts of scepticism and irony"—"gifts" which could hardly be vouchsafed by indoctrination, nor written into law, nor (so far as I can conceive) substituted for by procedures.[80]

Berlin, Shklar, and others thus confronted what I have called a "liberal problem of pedagogy."[81] This problem is generated if we assume 1) that realizing the goods at which liberals aim, or merely sustaining liberal democracy itself, requires the cultivation of a certain spirit on the part of many (though not all) citizens; but 2) attempts to *impose* morality through institutions is in tension with the "spirit of liberty" itself. This second assumption may be expanded, and its force strengthened, by holding (as I have suggested many liberals have held[82]) that this "spirit" is not simply a matter of having certain virtues and holding certain beliefs (though it may involve both), but is a more complex, elusive way of being in and responding to the world, which cannot be attained simply through indoctrination, or the habitual instilling of individual dispositions or rules of behavior.

These premises are by no means self-evident or inescapable; and given the discomfort and difficulty involved in the "liberal problem of pedagogy," it is tempting to simply reject one or another of them. However, liberals like Berlin and Shklar believed that there were very good reasons for holding them to be true (or at least likely); and practical political dangers in discounting them (whether by believing institutions alone to be sufficient—either to act without the aid of personal virtue, or to generate it; or by holding that it was possible and permissible, or indeed obligatory. to promote liberal virtues or culture through tutelage or indoctrination).

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79 Berlin to Henry Luce, 4 May 1950, *Enlightening* 180

80 Berlin, "The Intellectual Life of American Universities" (1949), reprinted in *Enlightening,* 750.

81 Cherniss, *Liberalism in Dark Times*, 209-10.

82 See ibid., passim (particularly 31-39 and 198-201, for a summary of the claim).

Liberal theory may be tidier and more comfortable, liberal practice simpler, if we discount the problem. But I tend to think the theory will be impoverished, and the practice imperiled, unless we make room for confronting the problem, and thinking and living with it.

IV Why (and How) Liberals Should (Still) Go Beyond Institutions

To acknowledge the liberal problem of pedagogy may inspire a turn to institutionalism; but it hasn't always, and it need not. While in his response to Elliston Berlin echoed the tendency associated with the turn from a more "ethical" to "institutionalist" liberalism, invoking the importance of "machinery for conciliation,"[83] on the whole his writings looked more to personal character, sensibility, and judgment.[84] In this, he resembled a group of liberals who recognized the importance of the psychological, characterological, and ethical – of "attitudes," "character," "style of life," "sensibility," "ways of feeling," "technique and temper"[85]— in shaping how individuals engage in politics; these individual ways of engaging, in turn, set the tenor and, at least sometimes, shape the outcomes of political life. This meant attending to character or ethos, and asserting agency, beyond (and perhaps against) institutions.

This orientation to an ethical dimension of political life was not at variance with, but closely connected to, the pluralism and resistance to dogma or certainty advocated by Berlin, Shklar, and other postwar liberals. The strand of liberalism they developed was marked by a

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83 Berlin to Elliston, op.cit.

84 This aspect of Berlin's thought is stressed in (*inter alia*) Cherniss, "'The Sense of Reality': Berlin on Political Judgment, Political Ethics, and Leadership," *The Cambridge Companion to Isaiah Berlin*, 53-77; idem., *Liberalism in Dark Times*, Chapter 6; Ryan Patrick Hanley, "Political Science and Political Understanding: Isaiah Berlin on the Nature of Political Inquiry," *American Political Science Review*, 98:2 (2004), 327–39; Ella Myers, "From Pluralism to Liberalism: Rereading Isaiah Berlin," *Review of Politics* 72:4 (Fall 2010), 599-625; Alan Ryan, "Isaiah Berlin: Political Theory and Liberal Culture," *Annual Review of Political Science* 2 (1999), 345-62; idem., "Isaiah Berlin: The History of Ideas as Psychodrama," *European Journal of Political Theory* 12:1 (January 2013), 61-73; Alex Zakaras, "A Liberal Pluralism: Isaiah Berlin and John Stuart Mill," *Review of Politics*, 75:1 (Winter 2013), 69-96.

85 The quoted phrases are taken from Raymond Aron, Albert Camus, and Reinhold Niebuhr, respectively; for the original quotes, and discussion of them, see Cherniss, *Liberalism in Dark Times*, 69-70, 109-10, 126, 155, 216

resistance to what Shklar called "ideologies of agreement," which sought to establish some indisputable or incontestable conclusion or consensus, as the foundation for political order and guide for political judgment by. And, Shklar emphasized, *both* impulses toward scientific or legal "neutrality" and "objectivity," *and* efforts to revive philosophies of natural law, fit into this model: both sought a way to escape from the messy reality of conflict, and the burdensome need for judgment, at the heart of politics.[86] Their age was dominated by, in Albert Camus's words, "people who think they are absolutely right, whether it be in their machines or their ideas"[87]— where "machines" included legal and bureaucratic processes. Not only radical (and some conservative) critics, but some liberals, resisted the illusion of certainty—and the anaesthetization of moral sensibility and judgment—involved in proceduralism or technocracy. Unlike many of radical and conservative critics, liberals also resisted systematic ideologies, religious faith, tradition, or utopian ideals as antidotes to institutionalism.

From all of this, it should be clear that this "extra-institutionalist" tendency was *not* the same as romantic, radically-individualist, or intuitionist or organicist anti-institutionalism. That is, it was not driven by the assumption that true political principles, and solutions to vexing moral problems, were simple or (intuitively) clear to all ordinary people of sound faculties, solid common-sense, and earnest good intentions;[88] nor by faith in the ability of extraordinary individual political visionaries or geniuses to impose their inspirational, transformational visions; nor by a backward-looking, romantic or traditionalist hankering after the restoration of

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86 See Shklar, *Legalism*, 86–110; Jan-Werner Müller, "Fear and Freedom: On 'Cold War Liberalism,'" *European Journal of Political Theory* 7, no. 1 (Winter 2008): 45-64, at 49–51.

87 Camus, "Neither Victims Nor Executioners," in *Camus at Combat: Writing 1944-1947*, ed. Jacqueline Levi-Valensi, trans. Arthur Goldhammer (Princeton University Press, 2006), 259. The point is underscored by Camus's previous sentence, which laments that "we live in a world of abstractions, of bureaucracy and machinery, of absolute ideas and of messianism without subtlety."

88 On this tendency in American political culture see Alex Zakaras, *The Roots of American individualism: Political Myth in the Age of Jackson* (Princeton University Press, 2022), especially 91-98.

immersive formation and guidance by the folkways of *Gemeinschaft*, opposed to rule by formal rules.[89] Nor was it even animated by a deep suspicion or hostility toward institutions as inherently corruptible and corrupting. Postwar liberals regarded purity, perfection, or even a return to vibrant, rigorous civic virtue to be unrealistic—and dangerous--ideals for politics.[90] Both institutions, and the alternatives and supplements to them, were inherently imperfect, and indispensable; they needed to be supplemented, interrogated, reconsidered and reformed—not dispensed with or scorned. Far from reflecting optimism or nostalgia, the move beyond institutions—and beyond ways of thinking and acting marked by "institutionalism"— reflected awareness of the fragility of liberal achievements (both institutional and ethical), and the persistence of deep conflict.

While institutions were needed to mitigate such conflict, they were inherently vulnerable to the inevitable, but usually unpredictable, recurrence of *crisis* in political life. For some, the problem of political crisis seems to both reaffirm, and reveal the weaknesses of, liberal institutionalism. In a crisis, the properly liberal response is reaffirmation of legal norms and procedural regularity; to resort to will and judgment, whether by Caesarist leaders or mass plebiscites, is self-evidently anti-liberal.[91] But to recognize the limited ability of institutions—or an institution-oriented political theory and political strategy—to cope with grave political crises need not require abandoning liberalism. Rather, a liberalism that is true to earlier liberal insights about civil society and individual agency, and sufficiently clear-eyed, will recognize the

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89 Many of these tendencies are expounded in Rosenblum, *Another Liberalism*; for the classic contrast between *Gemeinschaft* and *Gesselschaft* see Ferdinand Tönnies, *Community and Civil Society*, ed. Jose Harris (Cambridge University Press, 2001 [1912))

90 On postwar liberal emphasis on the dangers of the ideal of "purity," see Cherniss, *Liberalism in Dark Times*. For an earlier, searching critique of radical or transformative visions of community see Helmuth Plessner, *The Limits of Community: A Critique of Social Radicalism*, trans. Andrew Wallace (Humanity Books, 1999 [1924]).

91 Carl Schmitt, and the many thinkers who followed in his steps, are illustrative here.

importance of action by individuals and groups in civil society, moved by a "constitutionalist ethos or identity" rather than by the letter of constitutional statute, to protect against the subversion of liberal institutions when those institutions themselves are insufficient to do so.[92]

Yet the features of character, conscience, and judgment needed to inspire extra-institutional action cannot be trusted to spring up spontaneously, like mushrooms.[93] How, then, might one encourage (one can never hope to *ensure*) their emergence? Institutional indirection—the inculcation of desirable temperament, judgment, and character through the working of institutions that model procedural fairness—can certainly play a valid role: institutions *do* influence the formation of the human beings who inhabit them; and some of the qualities associated with respect for liberal institutions and liberal institutionalism are indeed desirable. So, too, are *some* of the features that institutions may paradoxically or ironically inspire, by provoking irritation and resistance. Institutions may not be self-correcting, but their manifest shortcomings and pathologies *may* inspire the features of agency needed to correct them. Or so we may hope.

But we may—perhaps must—go beyond the pious wish that the desirable influences of institutions will outweigh the undesirable ones, or provide enough resources to deal with decay, entropy, corruption, or crisis. Earlier liberal efforts at moving beyond institutions offer some fruitful ideas. First, it is striking how many liberals who were concerned with character-formation but averse to indoctrination turned to literature—whether producing it or invoking the

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92 Nancy L. Rosenblum, "Constitutional Reason of State: The Fear Factor," in Austin Sarat, ed. *Dissent in Dangerous Times* (University of Michigan Press, 2010), 146-75, quote at 164.

93 Thomas Hobbes, *On the Citizen*, ed. and trans. Richard Tuck and Michael Silverthorne (Cambridge University Press, 1998), 102.

products of others—as a means of reflection and self-formation.[94] Literature not only offers a more indirect, and effective, means of provoking thought, fostering imagination, communicating knowledge of human behavior and psychology, exercising judgment, and developing moral sensibility (though it can do all of that). It also allows for *both* the experience of ambiguity, ambivalence, and irony—and, as Trilling famously put it, "variousness, possibility, complexity, and difficulty"[95]—without forced or contrived resolution; *and* the evocation of emotionally powerful moral intuitions and sentiments. "Goodness is easier to recognise than to define,"[96] and the impact of being brought face-to-face with goodness, courage, compassion, decency, and nobility—or evil, cruelty, complacency, misery, and infamy—in literature has a force that propositional argument alone seldom does.

This is not to suggest that argument is not important. The liberal theorists discussed here (and many beyond them) were *theorists*: they were committed to seeking to achieve and communicate rational understanding through explanation and argument. And most of them sought to engage in rational persuasion for a wide public, without mystification or condescension. The cultivation of that noble ideal, the well (or liberally) educated citizen, and the cultivated attempt to reach them, remains a crucial, if elusive, part of liberal projects.

There may not, however, be much that any individual, or number of individuals, can do to create the conditions in which education will flourish and argument triumph over prejudice, routine, and force. There remains what I have invoked elsewhere as a "pedagogic mode" or

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94 The creators of imaginative literature include de Stael, Constant, Trilling, and Camus; those who have invoked the literary works of others include Mill, Ortega, Berlin, Shklar, Flathman, and Rosenblum; in this latter vein see also Lesch, *Solidarity in a Secular Age,* chapter 6. Of course, insofar as the essay itself may be seen as a work of imaginative literary creation, this dichotomy may be artificial.

95 Lionel Trilling, *The Liberal Imagination*, (New York Review Books, 2008 [1950]) xxi.

96 W.H. Auden, "Morality in an Age of Change" (1938/1939) in *Complete Works, Volume 1: Prose and Travel Books in Prose and Verse: 1926-1938*, ed. Edward Mendelson (Princeton University Press, 1997), 477.

practice of *exemplification* of the kind of character, judgment, and behavior within and beyond institutions so needed for liberalism, which liberals such as Berlin saw as the preferable alternative to "attempts to mold character and impose belief." [97] This can take many forms: political conduct itself, or the example of intellectual engagement, moral sensibility and personal character conveyed in writing and speech, in everyday life (including, crucially *for us*, the classroom). Exemplars encourage and guide: as Linda T. Zagzebski writes, they "make us want to be moral and they show us how to do it."[98]They thereby offer, in Nancy Rosenblum's words, "a public education in liberty," "exhibit[ing] power" rather than imposing or institutionalizing it, and thereby inspiring emulation—which will hopefully grow into mature self-direction rather than slavish imitation.[99]

However it is done, going beyond institutions is important for a sustainable liberalism. For our institutions, like ourselves, will never be perfectly wise or just; and they may compound and calcify our injustices and unwisdom. The performance of action, cultivation of character, and refinement of judgment beyond institutions is needed to provide direction and meaning which institutions alone cannot; to sustain forbearance, respect, and active defense of rights of others for which institutions necessary but not sufficient; and to preserve qualities of independence, individuality, and resistance to an unthinking proceduralism or normalization, which are necessary to act without, beyond, and sometimes against institutions.

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97 Berlin, *Russian Thinkers,* ed. Henry Hardy and Aileen Kelly (Penguin, 2008), 296. I discuss this further in *Liberalism in Dark Times* 210-11 (on which the discussion here draws); see also Linda T. Zagzebski, *Exemplarist Moral Theory* (Oxford University Press, 2017) and Adriana Alfaro Altamirano, *The Belief in Intuition: Individuality and Authority in Henri Bergson and Max Scheler* (University of Pennsylvania Press, 2021).

98 Zagzebski, *Exemplarist Moral Theory*, 129, 127.

99 Rosenblum, *Another Liberalism*, 17. Cf. the discussion of "democratic enactment" as a response to attacks on (liberal) democratic norms and institutions in Rosenblum and Russell Muirhead, *A Lot of People Are Saying: The New Conspiracism and the Assault on Democracy* (Princeton University Press, 2019), 158-65.