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1. *Introduction: Populism as an emerging and enduring challenge*[1]

There is a mediatic consensus that the recent years have been deeply and broadly marked by populism. Still, within and without academia, confusion and disagreements endure over the question 'what is populism?' Consequently, the purpose of this article is twofold: first, it provides definitions and clarifications about populism. Secondly, it further explores the relation between populism and (in)equality, whose centrality is highlighted by the definitional inquiry itself.

The topic of populism has lost some of its immense popularity since the start of 2020: the general public and political analysts started debating whether populism would survive, exploit, or suffer the pandemic (e.g. Rachman 2020; Sehran 2020). The view that Covid would have thwarted populism was relatively fashionable at the outbreak (Champion 2020). Other experts suggested that this might have no effect, a variety of ef-

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fects, or even reinforce populism in the longer term (Mudde 2020; Bergsen 2020). Comparative reports also show that the answer to the question appears to be highly contextual (Katsambekis, Stavrakakis 2020).

To assess whether and why populism is actually enduring in such a deeply transforming world, one has to identify its central and persisting traits. Without any pretense of exhaustiveness, and with an awareness of the notoriously 'protean' (Gellner, Ionescu 1969) or 'mercurial' (Stanley 2008, 108) nature of populism, this article focuses on its relationship to inequality and illustrates its centrality.

Hence, it sets out by recalling some topical aspects of the reflections by Nadia Urbinati (2019a; 2019b), Chantal Mouffe (2018), and Federico Tarragoni (2019). These are synthesized in the first section about "Contemporary Theoretical Perspectives On Populism". While Urbinati considers populism a disfigurement (2019a, 113) of democracy, with its tendency to embrace a *pars pro parte* conception of political leadership (2019a, 119), Chantal Mouffe acclaims the renewed possibility of the emergence of a "Left Populism" to challenge an increasingly dysfunctional neoliberal global hegemony. Within the limits posed by constitutional democracy, and which distinguish constructive 'agonism' from destructive 'antagonism' (Mouffe 2018), the elaboration of a 'chain of equivalences' binding together all resistances against manifold subordinations and outright oppressions would be, according to Mouffe, the catalyzer and realizer of such 'populist moment'. Finally, Federico Tarragoni criticizes the "dominating paradigm" in the political science of populism that he calls "populology" (*populologie*: Tarragoni 2019, 31; and *ibidem* chapter II. All translations from Tarragoni's French are mine). By opposing it to a historically-grounded reconstruction of the populist tradition, Tarragoni contests the trans-ideological, non-ideological, demagogical, or authoritarian characters which are often projected onto populism. On the contrary, argues Tarragoni, "the ideological and historical tradition" of populism is "plebeian and radically democratic" (Tarragoni 2019, 394. For a converging analysis focused on the US history see Postel 2019). These three thinkers offer fresh insights over the nature and state of populism from a variety of standpoints: more critical and detached (in the case of Urbinati) or more engaged and appreciative (in the case of Tarragoni, and especially of Mouffe). Yet in all their diversity, they converge in drawing what can be called a 'consensus': populism appears as

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a configurational moment or strategy which situates the populist leader, party, or movement against the (supposedly) hegemonic elites, and in line with the interests of the populace. This holds independently from its sincerity or opportunism, or even from its being situated at the ideological or rhetorical level (for a typology of theories of populism as ideology, style, or strategy see Gidron, Bonikowski 2013, 17; 2016), as well as from its immediate triggers in any specific scenario: therefore, the core nature of the populist dynamic does not appear as a mere epiphenomenon of neoliberal contemporary politics, but rather is entangled with the millennial fabric of politics. There are, however, differences between these authors. The most relevant of them is that Tarragoni's point is all about distinguishing genuine from unauthentic and misunderstood populism (see also Mondon, Winter 2020), while for Mouffe 'the people' is a "floating signifier" (Laclau 2005).

The convergence is nonetheless sufficient to sketch a deeper historical-theoretical grounding of the concept of populism, such as the one pursued in section 3. This begins at least from the time of Machiavelli, who appealed to a "ferociously populist" (McCormick 2001; 2011) check over elites and incorporated a lengthy discussion about the 'virtues of populism' (McCormick 2018) of sorts. Tarragoni and other important theorists-historians of populism, such as Camila Vergara (2020a) have delved into other, more recent, and most classical examples, and identified populism with its "plebeian politics" (Vergara 2020a; 2020b). The principal such examples are the Russian N*arodniki* ('those of the people') and the American People's Party in the late 19th century, as well as many Latin American regimes more recently, including contemporary ones.

In order to dispel the terminological disagreement, while accounting for the important distinctions drawn by Tarragoni (as well as by Vergara and others), I propose to differentiate two layers of 'populism'. In the more general one, the 'populist moment' is an ever-present possibility of mobilizing the energies of the popular 'part' with a view to a renovation of the leadership or the elites. As it has manifested itself historically, however, populism has mainly incarnated a progressive struggle, and when it entangled some forms of nationalism, these were usually "civic and inclusive" and not "ethnic and exclusive" (Tarragoni 2019, 394). The merits of the former and "thin-centered" (Mudde 2004) definition are that it corresponds to the everyday use of the term and it foregrounds

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the formal opposition between people and elites. Its limits are that by employing it exclusively, one refers to movements all across the political spectrum, and the 'populist' feature will most often be insufficient to categorize their political ideologies (see the discussion on Tarragoni below). There is also a danger of popularizing extremist and ethnonationalist political movements by granting them the 'populist' banner they opportunistically claim (Mondon, Winter 2020). This is especially acute when they actually disregard the interests of their popular voters (Krugman 2018; 2019).

The narrower definition is more historically and ideologically charged. To be populist, a party, leader, or movement needs to be in line with the radically progressive tradition that has named itself populist. This view of populism – populism is 'people vs elites, plus something else' – is more normatively charged, and compels to renounce the use of the term in many of its current occurrences, even when the relevant party, movement or leader, or the electorate or political commentators believe that what is at stake is a rhetorical or genuine opposition 'people vs elites'.

Given this definitional and theoretical clarification of the meaning of populism, how can it inform an understanding of current politcs? These issues are addressed in section IV, where a brief overview of socio-political dynamics entangled with populism introduces a discussion on the central topic of inequality. Globalization has brought about new polarizing cleavages (Koopmans, Zürn 2019; Helbling, Jungkunz 2019) around which the ever-present possibility of populism materializes: the problem of 'Global Inequality' (Milanovic 2016) is therefore conferred a new depth along its mutually reinforcing power and economic dimensions. There can hardly be a greater distance between 'the people' and elites than in the global arena, and there can hardly be greater economic disparity than that between the losers of globalization, deprived of even the most basic welfare rights, and the winners, securing riches on a world scale.

In the concluding section (5), it will be argued that, in this context, the confused and confusing, oftentimes emotional and disarticulated reaction by populism revolves around attempts at reasserting and rearticulating enduring political categories and tendencies in a transforming and insecure environment: these include, most importantly, the friend-enemy opposition, especially in increasingly polarized two-party democracies, but also – and more variedly – the redefinition of the elites

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in terms of transnational and private powers. Seen in this light, more positive appreciations of the constructive aspects and founded claims of populism can be reassessed (first of all Mouffe's, but see also Kaltwasser 2012; Kriesi 2014; 2018). *Contemporary* populism can thus be understood as a re-articulation of enduring structures of politics in response to the global, surprising, and in many respects elusive transformations of the present. Metaphorically, it can be described as an attempt at rebuilding the *polis* while its foundations are shaken in a reluctant, conflictual, open-ended, and diversely realizable integration with the *cosmopolis*.

2. *Three contemporary theoretical perspectives on populism*

> [I]t is an axiomatic feature of literature on the topic to acknowledge the contested nature of populism [...], and more recently the literature has reached a whole new level of meta-reflexivity, where it is posited that it has become common to acknowledge the acknowledgment of this fact (Moffitt and Tormey 2013, 2, cited in Gidron and Bonikowski 2013, note 1).

This endless contestation implies that, when one reflects over populism, there is a risk of becoming entrapped by ambiguities and generalizations.

Yet this article vindicates the pragmatic validity and fruitfulness of this conceptual category by showing the role it plays in the reflections by Urbinati, Mouffe, and Tarragoni, in this section, and in understanding political history and current politics, in the next. These three authors offer interestingly converging (and no less interestingly diverging) perspectives on the topic.

In conclusion to this section, a 'residual consensus' over the nature of populism will also be identified in the configurational relationship between people-populism-elites.

2.1 Nadia Urbinati

Nadia Urbinati is one of the leading contemporary interpreters and critics of populism through the lenses of political theory, and she has recently produced a systematic analysis that both takes stock of a large literature on the subject and offers updated insights on the phenomenon.

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To begin with, she firmly situates "populism within the global phenomenon called democracy, as its ideological core is nourished by the two main entities – the nation and the people – that have fleshed out popular sovereignty in the age of democratization."(Urbinati 2019a, 111).

Despite its genealogical connections to democracy, populism alters it profoundly: it "consists in a transmutation of the democratic principles of the majority and the people in a way that is meant to celebrate one subset of the people as opposed to another, through a leader embodying it and an audience legitimizing it" (*ibidem*). These two elements – and the related concerns – structure Urbinati's reflection over populism. On the one hand, populism pursues a *pars pro parte* (Urbinati 2019a, 119) identification of its majority – seen and/or presented as the *true* people – with the constituted *demos*. Nonetheless, it aims at establishing such hegemony through electoral victories, and is, under this respect, different from Fascism (*ibidem*: for a more detailed comparison between Fascism and populism, see e.g. Urbinati 2019b, 17-26; 134-135). On the other hand, populism cultivates the ideological oxymoron of "direct representation" (Urbinati 2019b, 8) as a form of more genuine and efficient democracy to be opposed to party politics and liberal democracy. By doing this, populism calls into discussion the ordinary division of powers, and in particular the relation between the electorate and the executive. This latter is seen as a quasi-personal if not completely personal relationship, a connection full of emotional features, or even an empathic projection (Urbinati 2019b, 40). These elements characterize the "disfigurement" of democracy operated by populism, especially when it seizes power (Urbinati 2019a, 118-124) and makes resort to a plebiscitary instrumentalization of consensus.

The preceding might be sufficiently explanatory for what concerns the symptoms and syndrome: yet when she describes the etiology of populism, and conditions for its thriving, Urbinati's account is also helpful. First of all, she echoes Norberto Bobbio's reflection over the unfulfilled or broken promises of democracy (Bobbio 1987) by singling out "the growth of social and economic *inequality*, so that for a large part of the population there is scant or no chance to aspire to a dignified social and political life; and the growth of a rampant and rapacious *global* oligarchy that makes sovereignty a phantom" (Urbinati 2019b, 4, emphases added). These two dynamics have become inescapably urgent in recent decades:

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The expansion of globalized financial capitalism has progressively weakened the decision-making power of sovereign states (democratic ones in particular). And a globalized labor market has narrowed the possibility of striking the kind of social-democratic compromise between capital and labor that served as a foundation for postwar party democracy. (Urbinati 2019b, 203. See also *ibidem*, notes 28 p. 255 and 10 p. 254 for further bibliography on the matter).

It appears from this diagnosis that Urbinati's reading of the role of populism is not entirely negative: populism "comes to play two roles that were traditionally played by social-democratic parties: denouncing social inequality and the privileges of the few (who do not need national belonging to protect their interests), and reclaiming the power of popular sovereignty and its emphasis on the priority of majority interests" (Urbinati 2019b, 203). A similar appreciation also lays the ground for Mouffe's "maximalist" account (Urbinati 2019a, 28; 117-118) of populism.

2.2 Chantal Mouffe

In Urbinati's words, a "maximalist theory" of populism "offers not only a conception but also a practical template for the making of populist movements and governments" and "proposes a discursive, constructivist conception of the people" (Urbinati 2019a, 117). Urbinati is explicit in including Mouffe's account in this strand.

For present purposes, Mouffe's *For a Left Populism* is especially salient. The 'for' in the title makes the parenetic purpose of the work immediately evident, as well as stressing the perspective taken by the author. Mouffe denounces a "crisis of the neoliberal hegemonic formation" and that one – but she tellingly dialogues with a *we* – should "seize this opportunity... for the construction of a more democratic order" (Mouffe 2018, 8). Since her earlier theorization with Ernesto Laclau (Laclau 1985) – to whom the 2018 book is also dedicated – Mouffe construed populism as the "radicalization of democracy" embracing "the multiplicity of struggles against different forms of domination" (Mouffe 2018, 8). In hindsight, however, her more recent contributions had to come to terms with "a regression" (Mouffe 2018, 9), as she showed (Mouffe 2005) "how, having accepted the hegemonic terrain established by Margaret Thatcher around the dogma that there was no alternative to neoliberal glo-

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balization, her famous 'TINA', the new centre-left government ended up implementing what Stuart Hall has called a 'social-democratic version of neoliberalism'" (Mouffe 2018, 9).

Yet, Mouffe's hopes in the countering of this hegemony by a left populism have not subsided. Her interpretation of the opportunity opened up by the 2008 crisis, by the ensuing anti-establishment upheavals, and even by the most recent pandemic and economic crisis (Mouffe 2020) is that "In recreating political frontiers, the 'populist moment' points to a 'return of the political' after years of post-politics" (Mouffe 2018, 11).

In Mouffe's proposal, this reconstruction should revolve around a non-essentialist 'articulation' (Mouffe 2018, 46) of the people as a political subject.

> This 'people' is not to be understood as an empirical referent or a sociological category. It is a discursive construction resulting from a 'chain of equivalence' between heterogeneous demands whose unity is secured by the identification with a radical democratic conception of citizenship and a common opposition to the oligarchy, the forces that structurally impede the realization of the democratic project (Mouffe 2018, 41).

While the opposition to the elites is key in suggesting the "minimalist" (Urbinati 2019a, 116-117) 'definition' – brackets are here needed as the account provided in this article is also non-essentialist under this respect – another point worth deepening is Mouffe's diagnosis of the crisis of neoliberalism. This latter is closely superimposable to the traits already highlighted by Urbinati – namely, the loss of political, economic, and social power by the masses who benefitted less from globalization.

While a whole chapter of hers (2, in Mouffe 2018) is entitled "Learning from Thatcher", Mouffe does not condone the outcomes of Thatcherism, which she sees as but another strikingly successful version of neoliberalism: "The core of this new hegemonic formation is constituted by a set of political-economic practices aimed at imposing the rule of the market – deregulation, privatization, fiscal austerity – and limiting the role of the state to the protection of private property rights, free markets and free trade" (Mouffe 2018, 13). By securing hegemony across the left-right spectrum of party politics, as well as by winning electoral consensus by offering an unprecedented mix of liberal and 'egalitarian' – or more ap-

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propriately 'meritocratic' – promises, this neoliberal, technocratic 'radical center' (Mouffe 2018, 10) has been left unchallenged until a set of crises exposed its dangers and damages. By then, however, these had become hardly reversible.

2.3 Federico Tarragoni

Tarragoni offers an overview of populism which differs both from Urbinati's and Mouffe's: while it still concedes ground for establishing a consensus on the relationship between populism and equality, Tarragoni's critique has also a historical and definitional dimension which enjoins to distinguish the political phenomena hastily collected under the ample umbrella of 'populism'. By paralleling Max Weber's (1958) study on Protestantism and capitalism, as well as referring to Weber's conception of the value-freedom of social science, Tarragoni (2019 27; 389) rejects many usages of the term 'populism', both in academic and popular discourses. He opposes to them a historically informed analysis of populist movements, that he concludes by emphasizing the plebeian, progressive, and open conception of the people promoted by historical populisms.

Contrary to those who claim that populism is a-ideological, or trans-ideological, Tarragoni argues that such understanding of the term would render it practically meaningless, and even play an absolutory function for political phenomena that promote exclusivist ethnonationalist agendas (in this Tarragoni account converges strongly with Mondon, Winter 2020; 2018).

Tarragoni's examples are effectively illustrative here (Tarragoni 2019, 94 ff.). In 2018, the two Italian populist movements – the Five Stars Movement and the League – formed what themselves together with commentators described as a 'populist' government'. The same collapsed in about one year, as the two parties appeared ideologically opposed rather than simply different over a number of crucial issues. Tarragoni also recalls several parties in countries like Greece and France that have been all called populists despite being incompatible and often competing or even fighting each other. In particular, Tarragoni argues, commentators who conflate Syriza with Golden Dawn (in Greece: see Tarragoni 2019, 20) or the Front National with La France Insoumise (in France), often do so to disqualify such radical alternatives to the neoliberal paradigm. This

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would be coherent with the attempt of presenting the center itself as somehow 'populist', as in the rhetoric of Emmanuel Macron (Tarragoni 2019, 102). However, this blurring of ideological boundaries would be especially slippery, besides being blatantly confusing, since according to Tarragoni these identifications push toward the creation of political chimeras, or even encourage progressive and leftist constituencies to reconsider the far-right. Most importantly, Tarragoni holds, this (ab)use of the term populism would not be consistent with a much weightier and specific recognition of the heritage of the classical populist movements.

Tarragoni's claims, while deeply rooted in the historical study of populism, can be qualified. They point to traits of the historical tradition of populism which reach beyond the general opposition between people and elites, without discarding the importance of this latter. Furthermore, in line with Urbinati's and Mouffe's observations recalled above, they strongly connect populism with the plebeian struggle against inequality, especially in contemporary politics: Tarragoni's critique of neoliberalism is just as radical (305). Finally, his distinction aims at telling apart populism from ethnonationalism, with which the former is often confused.

However, this second, narrower, and historically valid definition of populism does not cover the broader, current use of the term. And this is not strictly required by the distinction between populism and ethnonationalism itself, as two authors who are as sensitive to that distinction, Mondon and Winter, imply by offering a broader and more neutral definition:

> We understand populism as a discourse centred on a construction or constructions of 'the people' against a similarly constructed 'elite'. Parties that are explicitly far right, far left, socialist, nationalist, racist – or subscribe to any other ideology – can also be populist, but none is populist by definition. They can be said to be populist to the extent that they rely in their discourse on the construction of a people against a real or perceived elite. 'The people' can thus be inclusive (the poor, 'the 99 per cent') or exclusive (white men, British people based on nationality or race). Populism is thus neither good nor bad, and it cannot be used on its own to explain any political phenomenon: there is no such thing as a populist party (Mondon, Winter 2020, 193).

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Mondon and Winter's conception accounts for the error of conflating populist parties from the right and from the left, which is also among Tarragoni's main concerns. They clearly concede that these parties can rely on an inclusive articulation of 'the people', which is what Tarragoni attributes to the civic nationalism of historic populism, especially in Latin America. Yet their supple use of the term is to be commended both for its capacity in explaining its underdetermined meaning in everyday political discourse as well as for its exposing of the fundamental opposition people vs elites.

2.4 A consensus on populism and inequalities?

The evident differences between the scholars of populism discussed so far should not obscure the commonalities which offered the occasion for their comparisons, and provide a venue for the continuation of this analysis. At the very least, and more or less explicitly, these thinkers agree on two central points.

The former is the denunciation of the role played by inequalities in contemporary politics. Urbinati, Mouffe, and Tarragoni hold almost identical views – despite the variety of their sources – on the shortcomings of the political ideology which has become hegemonic in later decades and established its controversial interplay with the immense yet destabilizing potential of globalization. The technocratic and meritocratic elites, whom Mouffe calls "the radical center" (2018, 10; 1998), have made the core of their agenda immune to political contestation by successfully disseminating the same values across the right and left, and by depoliticizing the policies dictated by expertise. Parts of the masses, especially in the middle and working classes, by reaction, have become increasingly pressed to look, if not for an alleviation of their plights, at least for voices, and they turned to those who presented themselves as 'anti-system' or extra-system: namely, and in most cases, populist parties from the left and right. It should be mentioned that, in many cases, this phenomenon has been largely exaggerated by the media: for instance, Mondon and Winter show that Trump and Brexit's popularity among the working class is by far less pronounced than is often claimed or assumed, especially if one considers non-voting. Nonetheless, they also recognize that the existence of substantial support by people with lower and especially middle income is real.

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The second point is no less crucial and concerns the endless debate over the meaning of the expression 'populism' itself. From Mouffe, Urbinati, and Tarragoni's account, one derives an image of populism as a configuration in the relationship between 'the people', 'the elite', and populist parties/movements/leaders themselves. As I argued in presenting Tarragoni's critique, here I embrace merely a 'minimalist' description of how this constitutes the demos (for the minimalist/maximalist distinction see Urbinati 2019, e.g. 28). That configuration often takes the form of resistance or liberation, wherein the populists portray themselves as the only genuine projection of 'the people' in the domain of agonistic politics.

There is no necessity to be concerned with the classic question about the sincerity of this political and rhetorical move here. The *possibility* of the genuineness of at least *some* populist movements seems not to be ruled out, especially in the light of the broad variety of contexts and instances of populism. Nor the issues they address should be discarded as instrumental *a priori*. This article shares these authors' views on the seriousness of the globalization/neoliberal crises, which now applies to the pandemic and post-pandemic one as well. Yet this second element – the people-elites-populists configuration – should not be confined to the context of contemporary history to apply, nor the presently staggering global inequality is a problem entirely without continuity with one of the fundamental political questions.

3. Populism and inequalities: history and 'essences'

Equality and inequality are notoriously difficult to approach as abstract dimensions of socio-political issues. As Raymound Geuss (2008, 76) notices:

> Many have found it tempting to follow the French Revolutionaries in counting *Égalité* as one of the cardinal political virtues. No one, to be sure, who wished to follow the lead of Marx and Engels even approximately could take this line, because both of them had been very firm and explicit antiegalitarians, or, rather, they had held that abstract equality as a social ideal was philosophically incoherent, and whether concrete equality in some respect was or was not desirable in some particular circumstances was always an open question.

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If Marx and Engel's theoretical caveats thus epitomized by Geuss recommend treating (in)equality as a concrete and specific political issue, rather than an abstract and universal one, Amartya Sen and James Foster (1997, 1-2) also relativize the concept under a socio-historical-cultural perspective:

> The Athenian intellectuals discussing inequality did not find it particularly obnoxious to leave out the slaves from the orbit of discourse, and one reason why they could do it was because they could get away with it. The concepts of equity and justice have changed remarkably over history, and as the intolerance of stratification and differentiation has grown, the very concept of inequality has gone through radical transformation.

The kinds of inequalities mentioned thus far, and which are relevant to understand the success of the political phenomenon of populism, are manifold: from inequality of power, of economic resources, of education, of social capital, to the national, ethnic, and international inequalities which are often both the subject and the explanation for populist rhetoric and politics. Yet these have also been recurrent themes in the history of Western political thought, where *the many* and *the few* are divided by their numbers as well as by inequalities in powers, riches, and interests. From Aristotle to Seymour Martin Lipset, equality and (widespread) prosperity have been seen as means if not prerequisites for democracy: "…perhaps surprisingly, equality and inequality of resources are issues addressed by Aristotle in his P*olitics* [as] a way of avoiding faction (e.g., P*ol*. V.3 1304a38-b5)" (Gottlieb 2018, 257) and "the more well-to-do *a nation*, the greater the chances that it will sustain democracy" (Lipset 1959, 75, emphasis added). The methodological, contextualist warnings introduced earlier in this section should suffice to convince that this thread in Western political thought can only be understood as a chain of Wittgensteinian 'family resemblances'. Yet this does not pose difficulties for the non-essentialist approach of this article.

In the midst and at an important turning point of this historical tradition, among the humanist thinkers who marked the beginning of modern political theory (see for instance Manent 2007), Machiavelli stands out as the one who most insightfully theorized over a conception of populism and the way this is connected to inequalities (especially inequalities in power).

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It seems that, for Machiavelli, the fundamental political cleavage – *popolo* and *grandi*: the people and the 'great ones' (nobles/elites) – arises out of a 'natural' inclination toward domination, in the case of the latter, and resistance to being subjugated, in the case of the former. The third element of the political dialectic he reconstructs, the prince, famously assumes the role of the protagonist who tips the balance, but is always in relation with the other two. And despite all his contextualism and attention to circumstances, Machiavelli is clear that "it is only on the people, and not on the *grandi*, that s-he [the prince] can ground power" (Balestrieri 2014). It is therefore not entirely surprising that, despite his pro-prince stance and the sympathies manifested for (some) tyrants, Machiavelli is associated by McCormick with the democratic tradition, and especially the populist one (McCormick 2018). McCormick's conclusion is trenchant toward a prestigious scholarship in political theory, Machiavellian, and democracy studies that he accuses of being more or less explicitly elitist, and especially in rehabilitating the (potential) function of populism:

> [...] overly alarmist responses to "populism" and a persistently expressed mistrust of majoritarianism pervade contemporary democratic theory. Prominent scholars may complain about the threats that wealth inequality and elite prerogative pose to popular liberty in contemporary democracies, and yet they too often devote the full thrust of their critiques to demonstrating how populist movements and popular majorities actually pose a more dangerous threat to liberty than do elites (McCormick 2018, 205).

Camila Vergara also draws on McCormick's account of Machiavelli explicitly and heavily (Vergara 2020, 233, 237, 244) to defend a "republican interpretation of populism" based on non-domination and popular empowerment. Two main elements are worth stressing. The first is that, in line with Machiavelli's theory, these "plebeian politics" is not an arbitrary preference for the popular component. The popular and elitist parties are not equivalent: protecting the people means ensuring non-domination by those who are defined by their appetite for power: even when leaving aside the contingent distribution of power, the relationship between the people and the elite is not symmetrical. Secondly, Vergara shows that Machiavelli and Roman history reveal a lack of direct plebeian represen-

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tation which risks hijacking contemporary liberal democracies in favor of the interests of the elites: this seems especially true in a moment when traditional post-war party politics and unionization have given way to a destructured politics wherein the popular components have lost voice and protection.

In his account of the constitutive elements of politics, as well as of the ways and institutions to temper them, Machiavelli is deeply indebted to his classical sources, and the dynamic configuration of the people, the elites, and the prince is an original elaboration of the traditional repertory which was left in inheritance from Plato, Aristotle, and Polybius to the Middle Ages and the earlier humanists. What is distinctive in the Florentine thinker's interpretation is mostly the new – and positive – role attributed to conflicts in political life, which makes his account 'agonistic' (Geuna 2005, compare with Mouffe 2018, e.g. 10, 14-15). Yet even a historical reading of the relation between populism and inequalities should not go as far as essentializing categories such as the *popolo* and the *grandi* (Balestrieri 2014). When this is avoided, both populism and inequality maintain the general and open-ended meaning which makes it possible to apply them to specific contexts and circumstances without foreclosing a flexible usage and a fine-tuning to these, and without falling into the fallacies of abstraction which have been denounced by Geuss and Sen at the outset of this section. Vergara shows how this plebeian vocation of populism is declined coherently throughout the history of populist movements and parties. This invites speaking of an 'essence' of the problem, especially through a historical perspective, even if by employing brackets and even question marks. And this as well makes it possible to map the fruitful perspective offered by such a deep tradition into an unprecedented context such as contemporary globalization.

4. *Populism and inequality*

What are, then, the specificities of contemporary politics, and especially those brought about by (de)globalization? Broadly speaking, one could identify three aspects as central: the crisis of national identity; transformations in the shape, meaning, and possibilities of democratic expression; and the condition of postmodernity, especially as seen from a so-

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cial-cultural standpoint. This list is complemented by the corresponding reactions and de/anti-globalization. The repertoire is derived from reflections over the 'broken' or 'unfulfilled' promises of democracy (Bobbio 1987; compare with Müller 2014), and these can usefully be presented as 'dilemmas' or unsolved nodes of democratization in the light of the contemporary, globalized condition (Mazzola 2021).

This sketch of the contexts of the emergence of issues of (in)equalities in association to contemporary social conditions can be further complicated by the acknowledgment of the possibility that their evolutions are not linear and that changes can be reversed, or even give the occasions for backlashes. This is especially true of the first divide recalled here, the one relative to national identity, which is the most important about globalization. The divide might even have been exacerbated, as a consequence of the transformations forced or accelerated by the pandemic.

Populism intersects with all of these dynamics in a complex way, and this explains the confusion and vagueness of discourses about it. Nonetheless, this final section is devoted to singling out the specificity of the dimension of inequality and to expounding over it. As inequality is an elusive and multidimensional concept – think about the inequalities of status implied by the nation-states system – the focus is here on inequality of a measurable kind, and especially socioeconomic, without losing sight of its various and more general contexts of emergence and their complex interplay with populism.

The basic and simple intuition that grounds this reflection consists in noticing that the opening of the 'Pandora box' of globalization, that is to say, the trespassing of the national dimension of politics, and the integration of economic, social, and cultural dynamics into the international arena, has disrupted the structures that traditionally reined in inequality, and has opened up new possibilities for (un)equal socio-economic-political relationships which are insusceptible to being treated or solved in the classic framework of democratic politics. As a sheer matter of fact, economic global inequality seems to be "much worse than we think" (Hikel 2016); as a matter of logic, the opening up of the global dimension has rendered the emergence of situations that are either unequal or unordered under the respect of equality more likely and urgent. In a certain sense, and to resort to an analogy with temperature, it is not only *actual* inequality that counts but also inequality as it is *experienced*

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or *perceived*, and globalization has an impact on all of these levels. For example, inequality in education within a certain country is normally tempered by the fixed ceiling offered by that country's structures and policies, as well as by the compensation provided by parallel equalities with those affected by this dimension – say in citizenship, shared language, and cultural norms, etc. On the opposite, inequality of education in the globalized world can stretch as far as the distance which goes from a peripheral village in the Global South to the leading – and often expensively unaccessible – institutions in the Global North. The person who crosses this space might find oneself, depending on whether this will happen on the one extreme, at the middle, or on any point in the spectrum, at odds in both educational opportunities *and* newly acquired language and culture *and* income – as income level for the same job can increase manyfold by migrating. Furthermore, the same person might experience increases in political opportunities – say, by being able to participate in local elections in one's country of residence, while voting as a citizen in the country of origin or, in the most extreme scenario, that of dual and multiple citizenships which characterize a part of the global elite, by acquiring international political powers. Or at the opposite: in the case of an undocumented, a stateless, or a refugee, the same person would possibly be even more unequal in power and under other respects as the country of destination is reached. These examples show that, once the ceiling and floor of the national dimension are removed, inequality becomes vertiginous and cuts across a plurality of intersecting dimensions – once again, cultural, educational, political, economic, linguistic, legal/of status, etc. These new possibilities of experienced unmitigated or less mitigated inequality hold independently from the global trends of inequality per se.

Yet further exploring these latter trends also helps explain why populism, despite all the contextual differences and specificities, is increasingly more relevant as a global phenomenon. Following Branko Milanovic (2018), it should be acknowledged that the effects of globalization on inequality are manifold and that some crucial developments are impossible to predict. Still, Milanovic also explains that, in recent decades, a worrying phenomenon has fueled the successes of populism, at least in the West:

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Rich countries' workers are squeezed between their own countries' top earners, who will continue to make money out of globalization, and emerging countries' workers, whose relatively cheap labor makes them more attractive for hiring. The great middle-class squeeze, driven by the forces of automation and globalization, is not at an end (Milanovic 2018, 214).

This progressive erosion in the status of the middle-class has not been properly addressed – if at all – by politics. And while he seems to suggest that inequalities between some countries – especially in the West and in Asia – might be mitigating, Milanovic is scathing in answering the concluding question of his book, that is, whether globalization will remedy economic inequalities: "No. The gains from globalization will not be evenly distributed." (Milanovic 2018, 239). More specifically, domestic inequality within WENAO (Western Europe, North America, and Oceania: Milanovic 2018, 170) has increased, while the top earners in these countries have increased their distance from the middle and working classes. This trend is especially evident in the US and the UK but has nonetheless affected even the more egalitarian European societies significantly.

Inequality between countries, or "global inequality" as Milanovic calls it, has in some respects even decreased in recent decades. The "growth of the global middle class and the top 1 percent" (8) is however no consolation to those who have been left out. Also, this "global middle class" is quite sharply localized in contexts such as China and other Asian countries. Even the top 1%, however, has been deeply affected by the economic crisis that started in 2008. Did this alter the widening progression and perception of inequality in the West? Not so much, answers Milanovic. First of all, the top 1% includes a relatively large number of people in the richest countries: about 70 million, that is, as many as the inhabitants of France (37). What is most concerning, however, is that even among this group, "The Real Global Plutocrats: The Billionaires" were less affected by the crisis or were even able to gain from it (41). In 2013, this group included 1426 individuals, "one- hundredth of one- hundredth of the global 1 percent". It might therefore appear that emphasizing their political and social relevance cannot be justified quantitatively. That things stand otherwise is sharply evidenced by the further characterization of this group by Milanovic (42): "this super- tiny

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group of individuals and their families controls about 2 percent of world wealth. To put it differently, these billionaires own twice as much wealth as exists in all of Africa". To appreciate this comparison, one should also recall that the population of Africa is over 1,2 billion. Again, these figures might appear less shocking to those who are aware that inequalities have been enormous for much of recorded and especially recent history. Yet this perception is once again easily corrected by Milanovic when commenting on the growth of the wealth of the super-rich between 1987 and 2013: "both the number of hyper- wealthy people and their combined real wealth have expanded by a factor of five ($2.25 trillion versus $0.45 trillion)" and "the share of the hyper-wealthy individuals expressed in terms of world GDP has more than doubled, from less than 3 percent to more than 6 percent" (43-44). More generally, domestic inequality has increased almost everywhere.

Milanovic's analysis also suggests that these trends affect unskilled workers in richer countries much more negatively than those in the Global South. This is linked to the three main sources of rising inequality in rich countries. While there is a complex interplay between these sources, they can be analytically distinguished into three categories. The first one is the international economic integration which is evident in offshoring and in the diversification of the markets, both for the acquisition of supplies and sales. The second is technological change, which is rendering increasingly large shares of labor superfluous – everyday examples would include self-checkouts and table ordering apps which became increasingly widespread with the pandemic. The third is the institutional transformation that interacts with the previous two in a complex and reflexive way. For example, the dismantling of the system of unions is both a consequence of these changes in the workplace, workforce and supply-and-demand balance of labor and a cause that make these very dynamics harder to rein in and resist.

Another point from Milanovic's conclusions that is worth recalling is that the reduction of inequality to its formal-legal dimension – namely, by excluding income and economic inequality – is a mistake (226-230). In fact, this article, and the plebeian theories of populism it recalls, agree on suggesting the opposite, as the plural forms of inequalities can interplay, but each of them is relevant also. There cannot be substantial equality without addressing the economic dimension, which is measur-

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ably and objectively worrying. Milanovic's account should also be commended for its perceptiveness in reconstructing the *ideological* side of this increase in inequality. He explicitly resorts to false consciousness and hegemony (201) to explain how workers and the middle class in Western countries are consistently distracted from what is evidently one of their most acute problems: the 'cultural wars' which have lent space to political polarization in recent years assume an entirely different meaning when framed into this perspective. It is in this cultural and ideological perspective that Michael Sandel, a philosopher mostly known for his critique of Rawls (Sandel 1982) has turned to discuss populism and political polarization more recently (Sandel 2018a; 2018b; 2020). Ideologically, Sandel identifies in populism a reaction to the radically meritocratic individualism and competition of recent neoliberal theory and politics. Sandel criticizes the refrain 'You can make it if you try', together with the 'politics of humiliation' (Sandel 2020, 29) it gives expression to. Besides being largely empirically false in a world where a "person could become a Wall Street banker rather than a yoga instructor simply because of walking down the right street (and meeting the right person) one evening" (Milanovic 2018, 215), the phrase has a moral and normative implication. It suggests that those who fail have only to blame themselves for not having tried hard enough or well enough. More generally, Sandel argues, when rentiers are more rewarded and respected than the workers who guarantee the functioning of society through their menial yet harder services, the self-esteem and identity of members of the working class are endangered both individually and collectively. While the "ordinary" (McKean 2020) is increasingly repressed and suppressed both socially and politically, the disruption of social and communal modes of living caused by global neoliberal economic practices has only been accelerated by the pandemic. The picture painted by Hikel and Milanovich should at least be updated by noting that Covid has precipitated millions into misery (Páramo *et. al.* 2021). While it has disrupted small businesses and middle classes around the globe, it also inflated the income of giant corporations as well as of those who had the financial means to endure an economic drought and have even been able to speculate. Anton Jäger has indeed persuasively argued that the main targets of contemporary populism are "(1) a stagnant capitalism increasingly centred on 'rentiership'; and (2) a disorganised civil society" (Jäger 2020, 343).

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If these are true – and these analyses of trends in inequality and their socio-political implications are indeed very persuasive -, and in the light of the theoretical framework extracted from Urbinati, Mouffe, and Tarragoni, but also of the elements of Machiavellian 'populist theory' recalled in the historical section, the emergence of these new *grandi* versus the people is an urgent political problem. Accordingly, it seems no accident that one of the first measures suggested by President Joe Biden to address imbalances in the global economy has been to relaunch talks over global tax reform. The perspective offered here is theoretical rather than normative, but if it is correct, a host of such initiatives seem worth considering, if not urgently needed, and it is also crucial to ensure their effectiveness– something which is presently still unwarranted.

In the lack of such mitigations, the masses which are being torn apart from their national elites by the processes of globalization and transnational polarization, even more than deploying themselves on the left-right and/or GAL-TAN dimensions in ideological terms (Koopmans, Zürn 2019; Helbling, Jungkunz 2019) will continue to turn to populism: rather than to oppress, to find relief from oppression and despair.

5. *Conclusion: Inequality, populism, and the prospects of cosmopolitics*

In this article, I addressed the question of what populism is, why it is important, and what is its relation to inequalities. Despite its foundational relevance, the first question has been, and probably should be, left relatively open: the term 'populism' embraces a bundle of 'family resemblances' and one can usefully employ it without resorting to an essentialist approach. These are, as I noted, common conclusions in the literature about populism. Still, I have traced a perimeter of the populist dynamic by identifying convergences between thinkers as diverse as Urbinati, Mouffe, and Tarragoni. Even when they sketch a fuller account, their minimum common denominator is an understanding of populism as a particular configuration between leadership, people, and elites. They also all agree in seeing populism as a reaction to the effects of the neoliberal hegemony.

I have continued my analyses through a historical overview and a contextualization in contemporary globalized politics. In the former, I

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have recalled the persistence of proto-populist themes and presuppositions for a theory of populism and inequality, especially in Machiavelli. In the latter, I have stressed the peculiarities of the present situation by expounding on the challenge of mounting global inequality.

All these sections are connected by the thread of inequalities seen as the loci for populist politics to reassert a vision of what the equality which structures 'the political' fundamentally amounts to. Populist parties, movements, and ideologies answer this question very differently depending on the context as well as on their positioning on the ideological spectrum. Yet, in the last section, I have suggested that the permanence of inequality – especially and most blatantly, but not exclusively, in its 'vertical', economic dimension – as it is diagnosed by economists such as Milanovic - is likely to maintain the door open to populism, at least in the West and in the near future.

As these inequalities can be legitimately seen as problematic, populism is not necessarily bad. Even if one does not agree with Mouffe's positive articulation of populist politics, populism can work as a 'fire alarm' by bringing to the fore issues which can then be solved, perhaps even within more traditional modes of democratic politics. That is to say, I here endorse the view that it can be a 'threat' but also a 'corrective' (Kaltwasser 2012) for democracy. Of course, this depends on several contextual conditions (some of which are identified by Kriesi 2014; 2018). Therefore, the convergences and divergencies of populist politics across countries continue to exemplify the core issues determining the articulation of democracy and its basic principle of equality at the crossroad between the *polis* and the *cosmopolis*.

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Marco Miglino

A Proposed Solution to the Democratic Boundary Problem: The Relevant Coercion Account

1. Introduction

The democratic principle tells us that the demos should exercise self-government. Who, however, is entitled to be considered to be a part of it? This question refers to what is usually called the *democratic boundary problem* (Dahl 2005, 179-198; Whelan 1983), which is the issue of defining criteria that could be used to establish "who are eligible to take part in which decision-making processes" (Arrhenius 2005, 1). One of the most popular hypothesized solutions to this problem is the so-called All Subjected to Coercion (ASC) principle. According to this principle, the relevant demos for every considered decision-making process are composed of all and only those subjected to the coercion of the outcome of the decision-making process itself (Owen 2012, 145-147). Although substantial agreement exists among supporters of ASC that subjection to coercion entails only the right to political inclusion when it relevantly limits the individual ability to be the author of one's own life, scholars disagree on when this is the case. On the one hand, some views, which I call *systematic coercion accounts*, argue that only pervasive and frequent coercion limits individual autonomy (López-Guerra 2005, 222). Other perspectives, which I call *pluralistic conceptions of coercion*, propose a more nuanced view, arguing that coercion may diminish individual autonomy even when it is not systematic (Abizadeh 2008, 45-48). One example of a case in which this disagreement concerning the right interpretation of ASC emerges is represented by migration norms. Here, supporters of systematic coercion accounts argue that only long-term members of the receiving polities

have a right to inclusion in the making of these norms, insofar as they are the sole individuals who are pervasively subjected to the coercion of the state considered (Song 2019, 70-71). On the other hand, supporters of pluralistic conceptions of coercion argue that even would-be migrants should be included in the making of these norms because even if they are subjected to the coercion of the receiving states only in a marginal way, coercive migration norms deeply affect their capacity to plan their lives (Owen 2012, 146).

To overcome this disagreement on the correct interpretation of ASC, in this paper, I propose that we should define a set of criteria for the relevance of coercion for the individual ability to define a life plan. I argue that the incidence of coercion in individual autonomy should be determined by three criteria: a quantitative criterion, qualitative criterion, and temporal criterion. I propose to implement these criteria in a reformulation of the principle of coercion that I call *the relevant coercion account*. Furthermore, I apply it to the case of migration norms to show how it works and, more importantly, how it can overcome disagreements about the correct interpretation of ASC. To this end, I show that the relevant coercion account prescribes that would-be migrants – and then, substantially, every individual in the world – are included in the making of receiving communities' migration policies because these norms significantly reduce would-be migrants' individual autonomy in the sphere of movement, that is a relevant sphere of life. David Miller has recently contested a similar point; according to Miller, although autonomy in the sphere of movement can be considered relevant, border control cannot be considered a significant limitation of individual autonomy in this sphere, insofar as it only removes a few mobility options to individuals but does not undermine the general possibility for them to consider a plurality of alternative places where to move (Miller 2014, 364-366). However, I will reject this objection, arguing that it stands on a problematic conception of individual autonomy. Indeed, a plurality of options is a necessary but not sufficient condition for individual autonomy: another condition for autonomy is not being subjected to the will of another. Border controls seem to violate this second condition.

I proceed as follows. I start by presenting the general formulation of ASC principles (Section 2). I then illustrate my proposed criteria to evaluate the impact of coercion on individual autonomy (Section 3) and

a reformulation of the ASC principle that implements them (Section 4). Then, I provide an example of the application of my relevant coercion account showing that from this account, it follows a normative claim for the political inclusion of would-be migrants in the making of migration policies (Section 5) and consider the mentioned objection to this normative claim (Section 6). Finally, a short conclusion follows (Section 7).

2. *The all subjected to coercion principle*

A long tradition in democratic theory states that recipients of a coercive norm should also be coauthors (Benhabib 2006, 174; Rousseau 2005 [1762], 66-68; Habermas 2013, 139). This usually identifies subjection to coercion as a criterion for inclusion in the demos for the decision-making process. Generally, those who follow this intuition claim the following:

> Are entitled to be included in the demos all and only those individuals who will be coercively forced to observe the collective decisions that the demos in question approves (Biale 2019, 107-109; Erman 2014, 8-9; López-Guerra 2005, 222-227; Owen 2012, 145-147).

Scholars generally agree that subjection to coercion is morally relevant – and then entails a right to inclusion in the demos – only when it significantly limits individual autonomy. We can express this idea using the notion of the life plan, to which many supporters of ASC implicitly or explicitly refer (Abizadeh 2008, 38-42; Miller 2020, 9). Using this notion, we can make the essentially uncontested claim that coercion entails democratic inclusion if and only if it interferes with the individual's ability to autonomously define and pursue their life plan. The notion of life plans, following the way scholars classically utilize them (Mill 2009 [1858], 77; Rawls 2010, 101-105 and 377-422), can be defined as:

> a set of long-term projects, open-ended, and subject to ongoing revision, defined by the individual, that orient her actions in some relevant areas of her life.

Although agreement exists on the fact that the moral significance of coercion relies on it being a limit on individual autonomy, there is still disagreement on when and how coercion invades individual freedom.

And different ways to conceptualize the impact of coercion on individual autonomy determine different conceptions of political inclusion. On the one hand, some authors posit that subjection to coercion limits individual autonomy to relevant extents only when it is pervasive and frequent (Blake 2002, 273; López-Guerra 2005, 222; Erman 2014, 5; Miller 2016, 72; Sager 2014, 198). This interpretation of ASC might be called the *systematic coercion account*. On the other hand, other scholars argue that systematic coercion is not the only case in which coercion relevantly limits individual autonomy and that different kinds of subjection to coercion give grounds to different kinds of political inclusion (Owen 2012, 147; Abizadeh 2008, 48; Honohan 2014, 40-42; Biale 2019, 109-112). I call these views *pluralistic conceptions of coercion*.

What is problematic is the fact that both interpretations of ASC rely on intuitive conceptions of when and how subjection to coercion relevantly limits individual autonomy. These intuitions, nonetheless, may be controversial. As a consequence, this reference to intuitive arguments prevents us from converging on a univocal interpretation of ASC and then prevents us from identifying what idea of political inclusion a correct understanding of the criterion should prescribe. This, in turn, undermines the practical relevance of ASC insofar as it turns out that the principle is not able to indicate what composition of the demos would be required by democratic legitimacy in contested situations. A good example of this point is provided by the different ways in which supporters of the two distinct interpretations of ASC conceptualize the moral relevance of the coercive norms that define the migration policies of receiving communities. Supporters of systematic coercion accounts argue that only long-term members of the receiving community should be included in the definition of migration policies as the receiving state pervasively interferes only with the individual autonomy of its long-term members (Miller 2016, 72-74; Blake 2008, 968; Sager 2014, 198; Song 2019, 70-71; Baubock 2017, 63). In contrast, supporters of pluralistic conceptions of coercion claim that even would-be migrants should be included in the democratic definition of receiving communities' migration norms because even if receiving states do not systematically coerce would-be migrants, the migration norms these states enforce significantly limit would-be migrants' autonomy (Abizadeh 2008, 45-47; Owen

2012, 146; Valentini 2014, 792-793; Veschoor 2018, 15). Therefore, the absence of a shared account of when subjection to coercion is morally relevant prevents from providing a univocal conceptualization of the conditions of democratic legitimacy of migration policy from the standpoint of ASC, and then undermines the practical relevance of the principle.

This example proves that overcoming disagreements on the correct interpretation of ASC is necessary for the criterion to be able to do a normative work in real circumstances in which the boundary problem emerges. To overcome this disagreement, our conceptualization of the impact of coercion on individual autonomy should be determined by reference to a criterion or set of criteria for the relevance of coercion reasonably shareable for every supporter of ASC. This would permit us to establish, for any given case of subjection to coercion, whether a correct understanding of ASC would require an individual's political inclusion without referring to contested intuitions. To understand which criteria should be used for this purpose, I suggest inquiring about what criteria we intuitively use to evaluate the impact of coercion on individual autonomy in cases where our intuitions are *uncontested*. More precisely, I argue that the criteria we intuitively use to evaluate when coercion matters in cases in which there is not disagreement should be spelled out and included in our formulation of ASC. Fulfilling this task is the aim of the next two sections. In the next section, I will define three criteria that I propose be used to evaluate the relevance of coercion. These criteria entail: 1) what the coercive decision forces the coerced to do or not to do and the importance for the coerced to have the opportunity to choose in the circumstance considered; 2) the number of binding decisions the individual must abide by; and 3) how long the coerced will be subjected to coercion.

3. *Three criteria for the relevance of coercion*

How can we know when coercion is relevant to an individual's ability to define his or her life plan? In this section, I propose three criteria—qualitative, quantitative, and temporal—that can be used to determine the impact of coercion on individual autonomy. Below, I start by illustrating them.

3.1 The qualitative criterion

First, whether coercion is relevant to our autonomy depends on what it forces us to do or not do: coercion is relevant if it limits our autonomy in a sphere of our life that, for some reason, matters.

However, what determines whether a certain sphere of life is relevant? Here, I would like to define a two-level criterion for establishing the relevance of a sphere of life. On the first level, an objectivist criterion establishes that a sphere of life is considered relevant if autonomy in that sphere is a condition of autonomy in other spheres. For instance, if we consider, as a 'relational sphere', the sphere in which the subject chooses whether to have relations with other human beings and with whom, we might easily understand that a lack of autonomy in this sphere substantially precludes autonomy in every other sphere. If the subject cannot decide with whom to share his or her life, he or she lacks the opportunity to autonomously decide how to live.

However, we cannot make the relevance of every sphere of life entirely dependent on whether the autonomy in that sphere limits the subject's autonomy in other spheres. Indeed, there are spheres that we can justifiably consider relevant simply because people value having autonomy in them. In other words, the well-being and self-esteem of individuals may depend on whether they have autonomy – or at least a sufficient degree of autonomy – in particular spheres of life. Therefore, we need to introduce a second-level criterion stating that the relevance of a sphere of life is determined by the extent to which people consider autonomy in that sphere to be a symbol of dignity and self-esteem. Whether autonomy in a sphere interested in coercion matters from the perspective of this criterion is determined by the social meaning that is associated with autonomy in that sphere by the individuals subjected to coercion. And whether autonomy in a sphere of life matters to individuals is largely an empirical question that should be determined by sociological inquiry into the value that individuals assign to specific spheres.[1] As such, this

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[1] Ideally, we should consider relevant any sphere of life that a person considers relevant, thus, interpreting the criterion in purely subjectivist terms. However, since it is plausible to claim that every individual assigns different values to different spheres, this reading of the criterion would risk multiplying the relevant

second-level criterion has to be read as a contextualist criterion, sensitive to individual preferences.[2]

We can easily understand the logic of this second-level criterion insofar as we already implicitly use it to evaluate the relevance of certain spheres. Consider, for instance, the sphere of food. Obviously, autonomy in this sphere is not a condition for autonomy in other spheres. However, we might consider autonomy in that sphere to be relevant because people generally assign important moral and symbolic values to food. The kind of food one chooses may reflect normative or religious commitments, a national identity, and even social identities (Fielding-Singh 2017, 425-427; Lupton 1994, 666-668; Lyons *et al.* 2001, 201-203; Mintz, Du Bois 2002, 109-110). Then, we may suppose that individuals generally consider being autonomous in this sphere as a part of what it means to be autonomous agents. This example corroborates the reliability of the second-level criterion defined. I next illustrate the second criterion of relevance: the quantitative indicator.

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spheres and becoming overinclusive. Thus, it would become substantially inapplicable. To avoid these weaknesses, using sociological inquiry into the meanings that individuals generally assign to specific spheres as a proxy to identify what spheres are more significant to individuals seems justifiable.

[2] A possible problem of a contextualist criterion is that it might risk failing to identify the real value that individuals assign to any given sphere. This is because from a contextualist standpoint, what spheres of life are relevant should be determined by reference to the practices most held within a certain community. Shared practices, however, do not necessarily reflect real individual preferences, because not always they are freely chosen. Sometimes, for instance, they might be imposed by a majority that exercises domination over others. This is why it must be stressed that the criterion must be sensitive to individual preferences observed by empirical research: this would permit that the criterion avoids overinclusive consequences while avoiding biases toward 'the majority's view'. Indeed, it is plausible to expect that empirical analyses can capture views that achieve some threshold of numerical relevance even when they do not coincide with the majority's view. Therefore, the reading of the criterion proposed seems to qualify as a hybrid between a purely contextualist criterion and a purely subjectivist one that is able to mitigate the weaknesses of both extremes. For this consideration, I am grateful to an anonymous reviewer, who suggested it.

3.2 The quantitative criterion

The relevance of the sphere of life that is limited by coercion is not the only indicator that matters. There is a second quantitative indicator. The state limits my ability to define my life plan depending on how many coercive norms it subjects me to. For instance, from the quantitative perspective, long-term residents of a certain country are more subjected to state coercion than people in any other part of the world, which, as Goodin remarkably noted (Goodin 2016, 376-382), the state might want to subject to coercive norms for the sake of protecting its international security. Indeed, the second group of individuals is only subjected to a specific group of norms approved by the country; it is not subject to all of them. This, according to pluralistic conceptions of coercion, might be enough for the first country to diminish the individual autonomy of the subjects in the second country. Conversely, supporters of systematic coercion accounts would reject this point. What seems to be uncontested, however, is that in this case, the different number of spheres of life in which individuals are subjected to coercion has different impacts on individual autonomy.

3.3 The temporal criterion

The third indicator is temporal. Whether coercion relevantly circumscribes the individual's ability to plan his or her life is dependent on how long the individual is subjected to coercion. To explain this point, let us start with the notion of coercive norms. According to a well-established view presented in the literature, a coercive norm is roughly a conditional proposition that associates a negative consequence (which usually involves violence) with a possible action (Raz 1986, 149; Held 1972, 51-53; Abizadeh 2008, 40; Anderson 2006; Olsaretti 1998, 54; Nozick 1972, 102-109). When we consider how a coercive norm infringes on the individual autonomy of those subjected to it, we are concerned with the incidence on individual autonomy of the threat constituted by the norm itself. Therefore, the temporal indicator applies to the violation of individual autonomy determined by the threat. What matters, namely, is for how long the threat of penalty holds.

The reference to the temporal dimension permits us to make the apparently reasonable claim that, although in a strict sense, a tourist is

subjected to coercion in a foreign country, he or she is not entitled to any form of political inclusion there. Consider the following scenario: an individual visits a country where the law states that smoking must be punished with ten years of imprisonment. This norm associates smoking with a penalty so harsh that the potential cost of smoking is incredibly high. Consequently, it is essentially as if the tourist cannot consider the option of smoking. From a temporal point of view, if we assume that the tourist will remain in the foreign country for only a few days, we conclude that the considered norm has the consequence of denying the tourist the freedom for a few days. This restriction on freedom, if protracted for a prolonged time, may be considered relevant. Indeed, we might think that a stable application of these norms fails to treat individuals as rational agents capable of autonomously evaluating whether the pleasure of smoking compensates for its risks. It seems clear, however, that being denied this freedom for a few days does not relevantly limit the tourist's ability to define and pursue a life plan, insofar as the tourist will be deprived of this liberty only during the stay in the host country; and when the tourist returns home, he or she will reacquire the freedom to smoke. In the next section, I show how these criteria for the relevance of coercion can be implemented in a reformulation of the coercion principle.

4. *The relevant coercion account*

Before presenting the proposed reformulation of the principle of coercion, I think it may be useful to dedicate a few more words to how the indicators of the relevance of coercion just presented relate to each other. More specifically, I would like to point out that coercion cannot significantly interfere with individual autonomy if it is not relevant from the temporal and qualitative point of view. Conversely, quantitative relevance is not a necessary condition for the general relevance of coercion. Below, I clarify these points.

First, the fact that subjection to coercion cannot relevantly limit individual autonomy if it does not take place for a prolonged period of time seems to be proven by the tourist example. The same seems to hold for the qualitative indicator. To corroborate this point, a useful example might be the case of traffic rules. Several rules discipline our behavior

when we drive a car. These rules may potentially hold for a prolonged period of time. Nonetheless, these rules intervene in spheres of life that, per se, do not seem so significant for our global individual autonomy. For instance, it seems that it does not matter so much what speed I can keep on the highway for my general ability to define a life plan. Obviously, there might be exceptions. For example, the British might view driving the car on the left side as a part of their national identity, so that, if the British government approved a norm that establishes that British people must drive on the right, this might be perceived as a relevant violation of their individual autonomy. However, it seems reasonable to consider this as a special case that does not deny the fact that, generally, traffic rules discipline choices that are not central for our long-term projects. Therefore, we can say that coercion determined by traffic rules is quantitatively and temporally relevant but not qualitatively important. Certainly, we would not say that these rules importantly limit our individual autonomy. Therefore, this example seems to suggest that coercion cannot limit global individual autonomy without relevantly diminishing it in the qualitative sphere.

Conversely, it seems that coercion can diminish individual autonomy even without being relevant from the quantitative point of view. Imagine, for instance, that the state approves a norm stating that all citizens are required to wear a uniform every day of their lives. In this case, it seems that citizens' subjection to coercion is not significant from the quantitative point of view: they are subjected to the coercion of a single norm. Nonetheless, the state's interference is relevant both with respect to the temporal and qualitative dimensions. Indeed, citizens will be forced to do something every day of their life, and this seems to be enough to demonstrate the temporal relevance of the interference. On the other hand, the sphere of life in which the state interferes with citizens' freedom can be considered important by referring to the second level of the qualitative criterion. Indeed, although autonomy in the sphere of fashion is not a condition for autonomy in other spheres, it can be considered a significant source of individual well-being. This is because one's style of clothing can be considered a part of his or her personal identity: specific styles of clothing can reflect religious or political commitments, for instance. Therefore, limiting an individual's autonomy in this sphere may amount to limiting an individual's capability to express his or her identi-

ty in everyday life choices. Now, it seems reasonable to claim that in this case, even if the state's interference is not relevant from the quantitative point of view, it constitutes a significant limitation of individual autonomy. Thus, this example seems to prove that quantitative relevance is not a necessary condition for the general relevance of coercion.

This seems to be enough to illustrate the relations among the different criteria of relevance. Once these criteria and how they work are defined, we should turn to inquire into how the reference to these criteria for the evaluation of the impact of coercion on individual autonomy affects our understanding of ASC. For this purpose, I propose implementing the three indicators of the relevance of coercion that I present in our formulation of the principle, which I shall call *the relevant coercion account*. I define the principle as follows:

> For every certain set of coercive decisions, individuals are entitled to be included in the demos and to approve or disapprove of it to the extent that is proportional to the degree of relevance that the violation of the individual ability to define their life plan, determined by the set of coercive decisions, will achieve with respect to three criteria: to the qualitative criterion, which indicates the relevance of the spheres of life in which the individual is subjected to coercion; the quantitative criterion, which indicates the relevance of the number of coercive decisions to which the individual is subjected; and the temporal criterion, which indicates the relevance of the period of time during which the individual is subjected to coercion.[3]

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[3] The account I propose has much in common with Kim Angell's proposal. Angell maintains that political inclusion in the making of a certain decision *d* should be proportional to the extent to which *d* affects one's own capability to revise and pursue their life plan (Angell 2020, 131). What distinguishes the relevant coercion account from this position, which is called the *life plan principle*, is the fact that, while my account is structured on ASC, Angell's principle is a specification of the so-called All Affected Interests (AAI) Principle (Goodin 2007; Fung 2013). However, what is problematic in the choice to construct a scalar principle as a specification of AAI is the fact that the well-functioning of democracy requires the existence of a demos whose composition is relatively stable over time (Baubock 2018; Biale 2019; Walzer 1983). In addition, since what decisions affect whose life plans is a quite unstable datum subject to frequent mutations, a scalar principle structured on AAI could not guarantee the stability

From what has been said earlier concerning the relations among the three criteria of relevance, it follows that, according to this formulation of the principle, it is sufficient that coercive interference with individual autonomy is temporally and qualitatively relevant in order for it to constitute a globally relevant limitation of freedom. This seems to imply that my account permits the possibility that individuals can have a right to political inclusion even when they are not subjected to the coercion of an entire legal system and then when they are not systematically subjected to coercion. This qualifies my account as a pluralistic conception of coercion. What this account adds to already existing pluralistic conceptions of ASC is that it can determine whether and how nonsystematic coercion can relevantly limit individual autonomy, not in reference to intuitions but rather to the three criteria just presented, which allegedly are reasonably acceptable for every supporter of ASC. The reference to these indicators permits a defense of a pluralistic conception of ASC against systematic coercion accounts on more solid grounds. In the next section, I apply my account to the case of migration norms. Specifically, I will show that, applied to the case of migration norms, the relevant coercion account requires that would-be migrants be included in the making of the migration policies of receiving communities and that this implies that a global demos issue specific to the domain of international migration should exist. Furthermore, I will compare my account to Iseult Honohan's similar domination-based account and consider how it applies to the case of receiving communities' migration policies.

5. *The political inclusion of would-be migrants*

In this section, I provide an example of the application of my relevant coercion account by showing how it applies to the case of receiving community migration norms. A major debate exists on whether border controls can be

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of the demos required by democracy (Baubock 2018). Conversely, the presence of the temporal criterion for the evaluation of the general relevance of coercion permits to my relevant coercion account to avoid the risk of excessive fluidity in the composition of the demos. In this perspective, then, my relevant coercion account seems preferable to the life plan principle.

considered legitimate from the perspective of a liberal-democratic system of values. This debate engages two broad schools of thought, one in favor of open borders (Carens 1987, 255-262; Oberman 2016, 33-34; Kukathas 2012, 655-660) and the other in favor of states' right to control immigration (Walzer 1983, 32; Miller 2014, 369-372; Song 2017, 37-38). The approach I use in this section, as suggested by the work of other scholars (Abizadeh 2008, 35-48; Honohan 2014, 38-39), is different. Indeed, I am not primarily concerned with whether borders should be open or not. Rather, the question I want to address is how to compose the demos that approves receiving community migration policies (regardless of what they prescribe) for decisions to be considered democratically legitimate. As I mentioned in Section 2, migration norms is a case actually discussed by supporters of the two different interpretations of ASC in which the difficulties determined by the absence of a shared set of criteria for the relevance of coercion become evident. Therefore, applying the relevant coercion account to this case is a good opportunity to illustrate how it works and, more importantly, to verify whether it is capable of overcoming disagreements among the two interpretations of ASC.

Let us apply the formulation of ASC defined above to the case of migration policies. These policies usually define a set of coercive norms (i.e., norms that can be coercively enforced) to which every individual in the world is subjected. Indeed, every individual in the world will be coercively forced to observe these norms. Our criteria for the relevance of coercion permit us to infer from this point that every individual in the world should be included in the democratic approval or disapproval of the policy defined by these norms. Indeed, despite not being as relevant with respect to the quantitative dimension, these norms seem undoubtedly relevant with respect to the temporal and qualitative dimensions. They invade a central sphere of life, i.e., that of movement. Having autonomy in other spheres of life depends on having autonomy in the sphere of movement since the possibility of freely choosing where to live depends on the possibility of freely choosing *how* and *with whom* to live. Furthermore, the literature has clarified that individuals value autonomy in the sphere of movement. Indeed, as has been pointed out, movement across borders is not simply a reparation act that individuals perform to remedy a situation of inequality as a result of living in an unjust world. Rather, this movement is an irreplaceable part of a person's life plan (Ot-

tonelli and Torresi 2010, 15-17). This means that having freedom in the sphere of movement is not only functional to having freedom in other spheres but can also be perceived as inherently valuable since 'humans are not sedentary animals' (Baubock 2009, 7).

In the way it applies to migration policies, my model is different from that proposed by Honohan (Honohan 2014, 40-43). Honohan develops a domination-based approach that implements a scalar principle that states that the level of political inclusion to which an individual is entitled is proportional to the extent to which the coercive power to which he or she is subject affects his or her life. What differentiates my proposal from this model is that, according to this approach, the degree of domination over individual life is determined by the subject's will. For instance, a coercive norm that forbids action x is considered to be more coercive toward an individual who actually wants to do x than toward an individual who does not. Suppose we apply this model to the case of migration policies. We conclude that they should be approved by the citizens of the receiving country and all individuals who apply to enter and/or are currently trying to enter that territory. This does not, however, apply to others. Indeed, this is the dominion of individuals who are affected by norms to require political inclusion.

This logic, however, seems to contradict the idea of democratic freedom. As stated above, the democratic principle requires that the individual be included in the making of every collective decision that will lead to an exercise of coercion over him or her regardless of whether the decision removes an alternative he or she values or not. What matters is that the individual can consider the matter. Furthermore, it has already been noted how dangerous it can be to measure our freedom based on whether we can or cannot do what we want (Berlin 2010, 185-191). According to this logic, we should conclude that an ascetic who does not desire anything can be locked up in prison and still be free.

Different objections might be raised against the normative claim I defend in this section.[4] However, to conserve space, I will not consider all

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[4] One obvious way to reject my normative claim would be to reject ASC as a criterion of inclusion (Baubock 2018, 31-37). Furthermore, David Miller has argued that migration norms do not coerce would-be migrants; thus, ASC does not apply to this case (Miller 2010). Otherwise, the feasibility of this normative proposal might be put into question (Miller 2009, 209-211).

possible objections in this work. Rather, I will focus on a specific concern raised by David Miller that border control does not significantly restrict would-be migrants' freedom of movement (Miller 2014, 365). In the next section, I address this objection.

6. A *possible objection*: *do border controls significantly limit individual autonomy in the sphere of movement*?

Against my normative claim for the political inclusion of would-be migrants, some authors might contest that, despite the relevance of freedom in the sphere of movement, border controls do not constitute a significant limitation of this freedom. David Miller advances a similar objection. According to Miller, for an individual to be autonomous, it is not necessary that all possible life options are at his or her disposition. Rather, it is sufficient that he or she has an adequate range of life options from which to choose. According to this line of argument, for me to be autonomous in the sphere of movement, it is sufficient that I can choose from an adequate range of options of places in which I can be. Border controls do not necessarily undermine this plurality of options in the sphere of movement. For instance, citizens of the United States, according to this line of argument, could choose from an adequate range of life options in the sphere of movement even if they cannot cross the borders of the territorial community to which they belong (Miller 2014, 365-366).[5] Below, I illustrate what I find problematic in Miller's objection.

The premise on which Miller's objection stands is disputable. Indeed, the approach to autonomy Miller defends seems to be in conflict with the classic conception of autonomy as 'not being subject to another's will'. What I mean is that having a plurality of valuable options from which to choose, despite being necessary, does not seem to be a sufficient condition for individual autonomy. In addition, it is necessary that the range of options from which an individual can choose is not intentionally constrained by the action of another agent. This point can be defended by adapting the well-known example of the happy servant

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[5] I would like to thank an anonymous reviewer, who suggested me this possible objection.

(Pettit 2011, 707-708; List and Valentini 2016, 25-27; Abizadeh 2010, 126). Consider the following scenario. Imagine a polity governed by a constitutional monarchy. Constitutional law permits every member of the polity to have a wide range of options from which to choose in every relevant sphere of life. Every individual, for instance, can choose employment from an adequate variety of work options. Furthermore, constitutional law establishes that once individuals are permitted to consider a certain option, this possibility cannot be revoked by the action of the monarch, and if the monarch tries to interfere with individuals' ability to obtain one of these life options, the monarch will be prevented from doing so by a constitutional court. Suppose, nonetheless, that the life options every individual can choose from are initially established by the monarch.

Now, in this scenario, all the members of the polity have an adequate plurality of life options from which to choose. Furthermore, the integrity of this plurality is guaranteed by constitutional law. Nonetheless, it seems problematic to conclude that the members of the polity have the capacity to autonomously lead their lives for the following reason. The range of options every individual can consider is directly constrained by the decisions of another agent, the monarch in this case. In this sense, the members of the community are subject to the will of another agent in their life choices. It might be the case that among the life options that individuals are prevented from considering, there is one they value more. It seems plausible to claim that what the notion of autonomy aims to protect is the individual ability to autonomously decide what is valuable for oneself and what is not. Individuals in the scenario described are denied this opportunity since the options they can consider are unilaterally decided by the monarch; that is, it is as if the monarch arrogated the possibility of deciding which life options an individual can value and then what is (or should be) good for them. Therefore, it seems that individuals in the scenario considered cannot be said to be autonomous in any relevant sense, independent of how many life options they are permitted to consider.

Miller rightly argues that having the ability to do what one desires more is not a necessary condition for individual autonomy (Miller 2014, 364-365). For instance, I might want an Aston Martin, but the fact that I cannot have one does not make me relevantly less autonomous. However, this point does not undermine my argument against Miller. This is

the case because the condition for individual autonomy that I add does not require that I have all the options I value more at my disposal for me to be autonomous. What matters, rather, is what determines whether I can consider a certain option or not. In the account of individual autonomy I use, the fact that I cannot consider an option counts as a relevant violation of individual autonomy only if it is directly and intentionally determined by the action of another agent. It does not if the state of things considered is determined by unintentional consequences of other actions. For instance, the fact that I cannot have an Aston Martin may depend on the fact that I am not wealthy enough to buy it. Alternatively, my inability to buy an Aston Martin might be a consequence of the fact that the company that produces it decided to withdraw it from the market. These do not represent cases of a relevant violation of my individual autonomy. However, the circumstances are different if we imagine that the reason why I cannot have an Aston Martin has nothing to do with the unintentional consequences of some other agent's actions, but with the decision of another agent that I cannot have it. Indeed, in this case, I would be subject to the will of another actor, and then I would not be the author of my choice.

This argumentative passage seems to justify the importance I assign to freedom of movement across borders against Miller's objection. Indeed, the restriction of freedom of movement implies that the range of life options from which an individual can choose is determined by another agent, and then he or she is subject to the will of another (Carens 2013, 248-249). This conclusion seems to justify the thesis that limitations of freedom of movement across borders constitute a relevant violation of individual autonomy and that collective decisions leading to these limitations should be democratically approved by the demos in which those whose freedom of movement is limited by these decisions are included.

7. Conclusion

Despite an agreement among supporters of the principle of coercion that subjection to coercion is morally relevant and entails a right to political inclusion, only when it relevantly infringes on individual autono-

my does a disagreement exist on when this is the case. This disagreement is instantiated by the different views that supporters of different interpretations of ASC offer of the moral relevance of subjection to the coercion of migration norms. To overcome disagreements on the right interpretation of ASC, I propose to use three criteria that are allegedly reasonably acceptable for every supporter of ASC to determine when coercion matters. Furthermore, I propose implementing these criteria in a new formulation of the principle of coercion, which I call the relevant coercion account. After having distinguished my account of the boundary problem from similar positions illustrated in the literature, I apply it to the case of migration norms to illustrate how it works. To this purpose, I show that the interpretation of ASC I suggest prescribes that would-be migrants are included in the making of receiving communities' migration norms. Clearly, this is not the only case in which my inclusion criterion prescribes the existence of democracy beyond borders. Indeed, as mentioned in the paper, some scholars point out that different categories of norms subject every individual in the world to coercion (Goodin 2016; Valentini 2014). If, from the application of the indicators of the relevance of coercion, it results that these norms significantly limit the individual autonomy of individuals beyond borders, my criterion of inclusion would prescribe the inclusion of individuals beyond borders, even in the making of these norms. Furthermore, I address a possible criticism of the applied example of the relevant coercion account, and I argue that this criticism stands on a problematic notion of individual autonomy. What remains to be established is which institutional framework might implement the normative claim that follows from the application of my criterion of inclusion to the case of migration norms. However, answering this question deserves a dedicated paper. Therefore, I set it aside for future work.

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Kim Leontiev

**Disaggregating a Paradox?
Faith, Justice and
Liberalism's Religion**[1]

1. *Introduction*

When it comes to the regulation of religion, political liberals, or liberal-egalitarians, confront a paradox. On the one hand, freedom of religion is typically enshrined as the archetypal liberal right – the subject of differential treatment in comparison to isomorphic non-religious commitments such as secular moral precepts or deeply-held beliefs of individual conscience. On the other, the robust commitment to equal respect for persons and state neutrality precludes affording differential treatment to particular values or conceptions of the good – especially without a principled, normatively acceptable, justification. The problem for liberal-egalitarians here is that, unlike accommodationists, they are not prepared to argue that religion possesses distinctive and normatively relevant features furnishing such a principled justification. Equally, unlike comprehensive or perfectionist liberals, for whom state neutrality need not always preclude elevating certain comprehensive values above others, for liberal-egalitarians it does. And so, the paradox arises: if religion is not special how and why do liberal states afford it differential treatment?[2]

[2] This paradox is also observed (from another angle) by Laborde (2012).

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Over the years, liberal-egalitarians have debated numerous possible solutions to this. Though the specifics are far-ranging, the answers nevertheless run along two main trajectories of re-establishing neutrality – or what might be referred to as *levelling-down* and *levelling-up* (Schwartzman 2012, 1395-1396; 2017, 17). The first aims at neutrality by dispensing with all differential treatment of religion; the second, by extending the differential treatment to all normatively relevant analogues. Each direction however faces serious challenges. As the split itself reveals, there is significant disagreement as to both the demarcation of differential treatment and its very justification as a mechanism of cultural (or difference-sensitive) justice.

In a recent and influential contribution to these issues, Cécile Laborde (2015; 2017) has attempted to overcome these complexities through a novel approach of deconstructing or 'disaggregating' religion into its discrete interpretive dimensions. The aim of this paper is to examine Laborde's *disaggregation* strategy (Part 3) and evaluate its effectiveness as a solution to the paradox (Part 4). I will argue that although the disaggregation approach significantly enhances the clarity and defensibility of the liberal-egalitarian framework, its success here only reveals the far greater hurdles for the type of solution it and other liberal-egalitarian attempts have sought. Elucidating this, I contend that the disaggregation strategy in fact underscores the need for exploring novel and lateral approaches to the paradox. The paper concludes with a brief indication of one such approach. To begin with, however, Part 2 provides further background and clarification of the paradox and the liberal-egalitarian framework.

2. P*aradox*?

I began this paper by introducing a paradox for liberal-egalitarians concerning the interaction between privileging religion and the robust commitment to state neutrality. This may strike as somewhat misguided. After all, liberal neutrality is consistent with elevating certain foundational rights and freedoms and protecting each exercise to the greatest extent compatible with the equal right of others. Accordingly, enshrining equal freedom of religion and conscience over the prescriptions of some particular comprehensive doctrine is precisely what liberal neutrality re-

quires. It would be odd to talk about this as privileging or differential treatment when it is just the reverse of this which would be differentiation incompatible with neutrality.

All this is right but entirely orthogonal; the guarantee of foundational rights like freedom of religion and conscience is not here in question. Instead, it is differentiation in a comparative context whereby in spite of liberal state neutrality, religious commitments serve as the conceptual archetype for the category of protection-worthy interests and are, in practice, singled out for differential treatment compared to isomorphic non-religious interests such as secular moral precepts or deeply-held beliefs of individual conscience. I will refer to these as 'closely-analogous interests' or, simply, 'analogues'.

Liberal state practice discloses two forms of differential legal treatment comprising an intriguing regulatory dynamic that is reflective of the counterpoised dimensions of the paradox outlined at the start. In an apparent endorsement of the first, religion is afforded special legal protections (or *free-exercise*) – predominantly via accommodations and exemptions to general laws (for example, concessionary tax treatment or immunities from anti-discrimination laws). Conversely, in a crude adherence to the second, religion is constrained (or *disestablished*) being legally excluded from legislative rationales and any receipt of state sponsorship or endorsement (*establishment*, for short). No analogue interests are subject to such patterns of constraint or protection. Thus, for example, whereas there are constitutional or other legal constraints on endorsing religious doctrines or symbols, no such constraints exist for a range of secular doctrines whether gay rights, reproductive choice or gun control (Schwartzman 2012, 1353). Meanwhile, religious grounds – but not isomorphic secular grounds – have been both legislatively and judicially upheld for special protection in a vast range of contexts from accommodations for employment benefits[3] to exemptions from mandatory school attendance,[4] abiding antidiscrimination laws[5] or even compelled dis-

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[3] E.g. *Sherbert v. Verner* 374 U.S. 398 (1963) (*Sherbert*).

[4] *Wisconsin v. Yoder* 406 U.S. 205 (1972) (*Yoder*).

[5] *Lee v. Ashers Baking Company Ltd and others* [2018] UKSC 49 (*Ashers-Baking*).

closure of criminal confessions.[6] In each case of exclusive protection or constraint religion is singled out for what I have and will interchangeably call 'differential', 'privileged' or 'special' treatment.

To be sure and particularly regarding my reference to 'exclusive' here, I do not mean to assert that there is never a case of comparable treatment for a closely analogous non-religious interest. It is true, for example, that freedom of conscience (or, sometimes, 'thought') often appears alongside religion in constitutional and human rights instruments.[7] Still, cases of legislative and judicial application pale in comparison to religion, underscoring just how exceptional they are. Even when applied, such as with judicial recognition of conscientious exemptions for combat duties,[8] there has been considerable room to argue that the conscientious exemption was in fact an intended application of a religious one, loosely construed (see McConnell 1990, 1491, n. 420). My claim about exclusivity or differentiality then, even if not strict, is intended in this substantive sense.

Furthermore, it might be thought that in construing the regulatory dynamic in terms of 'free-exercise' and 'disestablishment', restricts the focus to the U.S. constitutional context and by extension those liberal jurisdictions that disestablish religion (according to one survey, this is around 40% of all liberal states (see Cross 2015, 166)). Yet, there are a great many liberal states which not only do not contain disestablishment provisions, but constitutionally establish a particular (state) religion (e.g. Judaism in Israel, Anglicanism in England, the Evangelical Lutheran Church in Norway (*ibidem*, 156). Does this not indicate that the regulatory dynamic I have described is clearly inapplicable to a considerable portion of liberal state practice? Once again, in substance, the answer is negative. Contrary to the stark differences in formal expression, the actual effects or implementation across the heteronymous liberal regimes shows remarkable convergence. A recent explanation of this convergence trend is offered by Sharffs (2018) in terms of the common

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[6] *Evidence Act* 1995 (C*th*) s.127.

[7] CCRF, s2(a), GG art. 4; *Human Rights Act* (1988) c. 42 (UK), art. 9; ECHR, art. 9; UDHR, art. 1, 18; ICCPR, art. 18.

[8] Notably, *United States v. Seeger*, 380 U.S. 163 (1965) (*Seeger*); *Welsh v. United States*, 398 U.S. 333 (1970) (*Welsh*).

denominator of the rule of law. Essentially, much like free-exercise is moderated in its application to ensure it does not turn into a kind of establishment by conferring too much privilege on any religion, so too establishment is confined to a more formal and restricted application by equal recognition and preserving free-exercise of the non-established faiths.[9] So while following the prevalent trends and adopting a U.S. gloss on the regulatory dynamic might present what is a more subtle legal landscape with heightened acuteness, it is nonetheless macrocosmically accurate in representing the salient tensions therein.

With the foregoing clarifications to the paradox and its regulatory manifestations, the crux of the problem for liberal-egalitarians should become increasingly apparent. If, as noted earlier, liberal-egalitarians are not prepared to endorse religion as distinctive or "special" in some normatively relevant way nor abandon robust neutrality, what justification can be furnished for the differential treatment?

Before turning specifically to Laborde's disaggregation strategy, it is worth briefly reviewing the kinds of responses developed within the liberal-egalitarian framework. As already noted, notwithstanding significant internal variation both within and across the levelling-up and levelling-down trajectories, the fundamental baseline of liberal-egalitarian response is essentially to deny that religion should be singled-out for differential treatment – at least not *qua* religion. This endows the liberal-egalitarian framework with at least two possible advantages. First, contra accommodationism, it is not burdened with explaining what is distinctive and normatively relevant about religion to ground its ethical salience nor the equally fraught task of defining 'religion' or specifying what should and should not count as (saliently) religious. Second, albeit more contentiously, it evades the perceived complications of perfectionism with regard to the tension between retaining neutrality whilst affording salience to certain ideals.

Nevertheless, as the divergence between the various liberal-egalitarian proposals attests, there remain a range of unresolved challenges

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[9] One interesting illustration can be found in Canadian jurisprudence which in the absence of a (dis)establishment clause has nevertheless relied solely on free-exercise provisions to achieve substantially the same dynamic (see Jeremy, 2006).

for liberal-egalitarians to work through. Indeed, accepting that religion holds no ethical salience *qua* religion, there still remains a justificatory void as to what (if anything) does or should? In other words, what are the implications or the proper place of religion and its analogues in contemporary, pluralistic liberal states?

The question is especially acute for liberal-egalitarians of the levelling-up variety for whom it requires explaining what (if anything) makes their redefined, broader categories of ethical salience ethically salient? Thus, with regard to disestablishment, what normatively relevant criteria should apply to determining the proper limits of state endorsements amongst competing values or conceptions of the good? Is it a preservation of individual ethical independence regardless of whether the incursion arises from the endorsement of religious or non-religious doctrines (Dworkin 2013, 137-145)? Or maintenance of equal respect through civic-non-disparagement via exclusionary effects on some citizens in partisan endorsements (Eisgruber, Sager 2007, 170, 192)? Or even the more general prohibition on appeals to comprehensive doctrines or perfectionist values in public justification (Quong 2011, 4-7, 12-15)? And if so, what is the proper characterisation of 'public' reasons and to what extent are religious or analogously comprehensive or sectarian reasons inadmissible thereto? Are they to be *ipso facto* categorically excluded as 'exclusivists' like Macedo (1997), Audi (2011) or Nussbaum (2011) maintain or required to be sometimes admissible given the arbitrariness or unfairness of their exclusion as inclusivists like Waldron (2012) and Eberle (2015) insist?

Similarly, with free-exercise, what shapes the category of ethical salience that determines which religious and analogous non-religious commitments are extended special protections? Again, there are various proposals here from 'meaning-giving beliefs and commitments' (Maclure, Taylor, 2011), to 'questions of ultimate value and concern (Nussbaum 2008, 19, 168-174) or a comparative equalising proposal (Eisgruber, Sager 2007, 4 ff.), none of which seems evidently superior or conclusive in answering the above challenge.

For levelling-down responses, which, as it were, bite the bullet and instead seek to dispense with categories of ethical salience and differential treatment (e.g. Dworkin 2013, 105-147; Leiter 2013, 92ff. Barry 2001, 19-54), the above complications are largely averted. Nonetheless, level-

ling-down is left to grapple with defining the contours of bare neutrality (without salience) and the apparent deficiencies this poses for securing justice under conditions of cultural and religious plurality. As shall be seen, even properly neutral laws which neither directly nor latently target or discriminate against any identity may nonetheless indirectly or incidentally create disproportionate burdens on some but not others. Unlike levelling-up, which can propose categories of ethical salience covering accommodations or exemptions to alleviate these burdens, levelling-down seems lacking in remedy.

The above survey is, of course, condensed and cursory as reflected in the rather hazardous attempt to divide all views through the 'levelling-up/levelling-down' prism. Though this usefully captures the key underlying impulses running across the various responses in the liberal-egalitarian framework, it admittedly invites severe confusion concerning disestablishment where it is unclear whether removing constraints on religion is an 'upward' or 'downward' move. In my sketch above, exclusivism represents a levelling-down and inclusivism a levelling-up, but to avoid these complications, I will reserve these terms for their more straightforward application in relation to free-exercise and of generality where the ambiguity has no bearing.

3. Disaggregation

In *Liberalism's Religion*, Laborde offers a novel proposal to the paradox and the complexities confronting the liberal-egalitarian responses thereto. Noting her general endorsement of the liberal-egalitarian framework (2017, 30-40), Laborde diagnoses the above complications as stemming from the same root cause: the inadequacy of religion as a politico-legal category and the tendency of liberal-egalitarians to *analogise* it with equally vague liberal categories of 'respect-worthy interests' modelled on something like the Rawlsian category of 'conceptions of the good' (*ibidem*, 3, 14, 27-28).

In particular, the *analogising* strategy is culpable in two key respects (*ibidem*, 4, 6). First, as just outlined with reference to levelling-up, despite evading the burden of justifying the *unique* salience of religion, liberal-egalitarians cannot entirely dispense with value-judgments about which kinds

of beliefs and commitments are normatively relevant or "ethically salient" (*ibidem*, 5). This is what Laborde calls the *ethical salience challenge*.

Second, there is the *jurisdictional boundary challenge* which probes deeper into the very determination of value categories. It is one thing to assign ethical salience to something such as comprehensive doctrines (as impermissible bases of public justification), or liberty of conscience (as ground for legal exemption), but it is quite another to determine what is and is not 'comprehensive' or an instance of conscience, respectively. The same goes for other salient liberal categories: good/right, religious/non-religious, public/private, comprehensive/political and so on (*ibidem*, 8). Liberal-egalitarians, Laborde agues, must be more explicit on this and cannot rely on neutrality, which provides no guidance on how to demarcate these meta-jurisdictional categories (*ibidem*, 6, 70).

In what follows, I discuss how Laborde's disaggregation approach might offer a corrective to these problems of liberal-egalitarian analogising. Given its deeper level of concern, and Laborde's own confinement of it to the specifics of institutional or associational autonomy, the jurisdictional boundary problem will be largely backgrounded, though I will return to it in Part 4.

3.1 Neutrality

In discussing the ethical salience challenge with respect to free-exercise – for which religious exemptions stand as the paradigm case – Laborde conveys the challenge as follows (*ibidem*, 201):

1. State neutrality prohibits judgments of ethical salience.

2. Religious exemptions assume the special ethical salience of religion.

   Therefore

3. State neutrality prohibits religious exemptions.

At first glance, the conclusion appears to require a levelling-down abrogation of special protections for religion. However, the operative qualifier "special" in premise 2 allows for an interpretation consistent with levelling-up whereby the prohibition is only to the extent that the exemptions are unique to religion, meaning that a broader category of exemptions might be permissible. Yet, the permissibility seems ruled out by premise 1,

which would apply to prohibit even an alternative (broader) category of ethical salience. The truth of premise 1 then becomes central to determining the implications of the argument and the divergent trajectories of response.

Before addressing Laborde's assessment of this crucial premise, it is worth making apparent its parallel role in relation to disestablishment also. Although Laborde does not specifically deploy the above presentation for disestablishment, the substantive parallels allow for a like rendering:

1. State neutrality prohibits judgements of ethical salience.
2. *Disestablishment assumes the special ethical salience of religion.

   Therefore
3. *State neutrality prohibits disestablishment.

As with the above on special protections, if premise 1 prohibits ethical salience then singling out religion (2*) (or its analogues) for special constraints is ruled out. With the subsequent analysis of neutrality, however, the subtle but important differences in the operation of neutrality in relation to special protections and special constraints will become clearer.

Starting with disestablishment then, how might premise 1 and neutrality be approached? Liberal-egalitarians posit that disestablishment is required neither because religion is unique nor because the state must be secular. Neutrality prohibits both alike. Yet the ethical salience challenge quickly emerges here since appealing to neutrality to preclude all conceptions of the good whether religious or secular, moral, philosophical or based on any other religious or non-religious worldview (*comprehensive doctrine*, for short) proves inconclusive.

As Laborde, amongst others, points out, there is something incoherent about strict or complete neutrality (2017, 40). Construing neutrality as "non-interference with all preferences, conceptions, commitments" – what Laborde terms "broad neutrality" – leads to uncertainties as to how and in respect of what the state may legitimately act (*ibidem*, 73-74). This is partly alluded to in my earlier mention of neutrality "without salience": even if the state were to extend disestablishment to all analogues of religion, what kind of commitments would that capture or rely on? These problems of broad neutrality are well-known. Rawls, for example, distinguishes between procedural neutrality, neutrality of aim,

and neutrality of effect whereby the first is self-defeating in inevitably presupposing substantive values or failing to quarantine substantively unjust ones while the third is overdetermined in respect of a particular value (even if just) (2005, 190-195). It is only neutrality of aim which can be properly calibrated to allow impartiality amongst comprehensive doctrines and equality of opportunity in the pursuit of individual conceptions of the good. But still, this too cannot be devoid of substantive value commitments: it must be restricted to only *permissible* conceptions of the good and comprehensive doctrines, excluding as impermissible those not compatible with the specified aims (*idem*.).

If all this is right and a coherent conception of neutrality must be guided by at least a thin conception of the good (in Laborde's parlance, "restricted neutrality" (2017, 71)). then it seems to follow that neutrality alone cannot explain what delimits permissible from impermissible or illiberal/unreasonable comprehensive doctrines or conceptions of the good.

The challenge of ethical salience thus presses political liberals or liberal-egalitarians to be more explicit about the operative substantive commitments within restricted neutrality. After all, the imposition of special protections or special constraints such as with disestablishment of religion or any analogue effectively entails that whatever religion or said analogue quintessentially is, it is not contained within the relevant conception of restricted neutrality. Yet, why this should be is not entirely clear even with further specification of the relevant conception let alone without it.

Consider, for instance, a restricted neutrality permitting the state to act only upon public reason justifications. Such a state might be precluded from endorsing particular positions in moral conflicts such as the permissibility of abortions, but not from promoting certain publicly justifiable goods (e.g. environmental protection, cultural heritage, or even economic and foreign policies indirectly favouring certain comprehensive doctrines over others) (Laborde 2017, 76-77). Given that in each case the relevant normative basis for discerning permissible and impermissible state endorsements is articulated relative to public versus sectarian reasons, any entanglements create serious conundrums: (where, for example, might the endorsement of animal rights, teaching Darwinian evolution, or ecological conservationism fall between public reason justification and furtive impositions of a partial conception of the good?).

Returning specifically to religion, the dynamic just seen readily applies to expose the inadequacies of the analogising strategy in response to the ethical salience challenge. If, environmental or cultural heritage protection can be construed as a *public* conception of the good not impermissibly encroaching on any personal ethics, could the same not hold to permit a state to, for example, decriminalise certain narcotic use necessary for religious ceremonial observances or legislate to protect a sacred artefact or site?

It will no doubt be responded here that it certainly could hold, but so what? Even if such endorsements of religious commitments are permissible it is not *for* religious reasons, but on essentially the same public reason basis as with the environmental and cultural heritage examples. Indeed, both the protection of the sacred site or relic and narcotic ritual could aptly conform to something like the restricted neutrality based on the "right to ethical independence in foundational matters" (*ibidem*, 72), famously proposed by Dworkin (2011, 376).

Granted, but even then enactments or restraints in recognition of such claims will nevertheless intimate the state's endorsement of the underlying religious commitment. To explain, being permitted by restricted neutrality to act in these matters does not automatically mean that the state needs to do so. Remaining altogether indifferent is also an option. Along with the environmental protection and cultural heritage examples, the case with religion here is not like that of endorsing vegetarianism over other diets, introducing Catholic hymns or recitations from the *Communist Manifesto* in public ceremonies. The latter are presumably ruled out by restricted neutrality. The former, however, are not, and the state is able to choose whether to act or remain indifferent. Not being indifferent thus constitutes a kind of endorsement even if justified on non-comprehensive/non-religious grounds.

Despite the appeal to state neutrality amongst reasonable conceptions of the good, liberal-egalitarians, Laborde argues, ultimately fall back on a more restricted neutrality supported by singling out some salient (even if thin) features of the good - whether ethical (such as ethical independence) or epistemological (such as some conceptions of public reason) – which dissect the inclusion and exclusion of state endorsements (Laborde 2017, 115). Where the norms of restricted neutrality are not transgressed, there is no preclusion on endorsements (*idem*). Accord-

ingly, Laborde rejects premise 1 – positing that though neutrality might preclude certain partialities amongst comprehensive doctrines or acting for sectarian rather than public reasons, this is not equivalent to a prohibition of judgments of ethical salience.

3.2 Disaggregation

If premise 1 is false, premise 2/2* gains a newfound significance. The key issue turns from ethical salience itself to the exclusivity or uniqueness of the ethical salience with respect to religion (comparatively, vis-à-vis non-religious analogues). In Laborde's words, in the context of special protections, "the objection must be that religious exemptions single out an *inadequate category* of ethical salience (*ibidem*, 201, emphasis added).

The truth of premise 2/2* then turns on what is meant by religion. Taken in its conventional sense 'religion', Laborde concedes, might indeed be too broad or too narrow, making premise 2/2* true. Yet, if in line with the disaggregation strategy, 'religion' is not treated as an undifferentiated monolithic category or analogised with equally vague liberal categories of comprehensive doctrines or conceptions of the good, then what is protected/constrained are the relevant underlying interpretive values/disvalues making premise 2/2* false: "*not all* religion and *not only* religion, meets the relevant interpretive value" (*ibidem*, 203).

Retuning once more to disestablishment, this means that if religion (and for that matter any category of interest) does not wholesale offend the relevant norms of restricted neutrality it need not be subject to blanket exclusions. Correcting this, Laborde proposes disaggregating religion into three dimensions which roughly align with what liberal-egalitarians already implicitly rely upon in discriminating between permissible and impermissible state-endorsements. Indeed, Laborde explicitly draws on each of the liberal-egalitarian proposals cited in Part 2 (i.e. Dworkin, Sager and Eisgruber, Quong) to derive the interpretive values triad of religion as *inaccessible, vulnerable, comprehensive* (*ibidem*, 115-117). Nonetheless, it is though this disaggregated configuration of (dis)values that Laborde posits the pitfalls of analogising can be overcome and (concerning disestablishment) a more principled, defensible position between the earlier-cited exclusivist and inclusivist positions can be advanced.

While detailing of each dimension of the triad is beyond this paper's purview, a few illustrations can convey the strategy's import. Consider something like a religious commitment to almsgiving. Whether or not a state can endorse this does not depend on the religiosity of the commitment per se as, but on the reasons for endorsement. Reasons derived from scriptural prescriptions would be *inaccessible* to non-believers, but for as long as there are public reasons like the benefits of charitable donations the religious origin of this commitment is irrelevant to its endorsement for the accessible (public) reason (*ibidem*, 122-123).

The point here requires some clarification in relation to broader debates on the typology of public reason as between intelligibility, accessibility, shareability (Vallier and D'Agostino, 2014). These are essentially concerned with the stringency of what qualifies a justificatory reason as 'public' reason and might be canvassed by expanding on the illustration above. Intelligibility would require only that the scriptural reason can be understood as counting as a reason according to the evaluative standards of the reasoner in question, making it a standard often advocated by 'convergence' public reason liberals (*ibidem*). To be accessible, however, the reason would need to be adapted to common evaluative standards as specified in the preceding paragraph. Notably, however, Laborde has more recently revised accessibility to also allow reference to individual standards of evaluation where they converge or "figure in the set of reasons that have some wight in different evaluative frameworks" (Laborde 2020, 121-122) Yet, this stops short of shareability which would further require that the reason can be shared or endorsed by all members of the public – as 'consensus' public reason liberals advance (*ibidem*, 121; Vallier and D'Agostino, 2014).

In light of this, it might be wondered why the relevant dimension for disaggregating is accessibility as opposed to the listed alternatives? Indeed, not only does it occupy an uneasy middle-ground between the inclusivist/exclusivist divide, but accessibility has been questioned in regard to both its independence from the shareability standard (Quong 2021; Laegaard 2020) and its capability of actually distinguishing between merely intelligible and accessible standards (Bardon 2020).

Laborde nevertheless insists that accessibility is the correct standard. Contra exclusivists, accessibility does not arbitrarily restrict religious reasons where they are amenable to common evaluative standards nor

unfairly constrain them any more than secular reasons such as personal testimonies which do not meet common evaluative standards (Laborde 2017, 124-129). Contra inclusivists, accessibility stops short of intelligibility or convergence views which might be considered insensitive to the epistemic respect owed to citizens to be offered justificatory reasons upon standards of evaluation they share (*ibidem*, 129-130).

Accessibility, of course, is not the only possible category for moderating the excesses of exclusivism and inclusivism. A sophisticated context-sensitive refinement to inclusivism has also been developed by March (2013) which Laborde acknowledges as a counterpart disaggregative strategy (2017, 282, n41). Like Laborde, March argues against a homogenised conception of religious reason yet rather than turning to accessibility or other epistemic revisions of public reason, March proposes a typology of different kinds of religious reasons and contexts of political justification. The less stringent or theocratic the type of religious reason and the less potential for state interference with basic rights and freedoms the political decision involves, the more admissible religious reasons should become (March 2013, 532 ff).

Though, a detailed comparison would be needed to properly determine the mapping, there is certainly evidence of some convergence between Laborde's accessibility and March's typology of religious reasons whereby those increasingly divorced from esoteric scriptural premises and intertwined with broader cultural traditions or moral and practical wisdom are ipso facto also more accessible. This is less clear, however, between the political contexts and Laborde's two further interpretive categories to be addressed below. For the purposes of disaggregation concerning disestablishment, however, March's and Laborde's strategies are broadly aligned and thus susceptible to common evaluation as shall be seen in Part 4.

As mentioned, accessibility as an exclusively epistemic category does not exhaust the categories of disvalue for disestablishment. Christian displays are often justified by reference to epistemically accessible bases of public culture or national tradition, but the permissibility of state-establishment will also depend on more substantive considerations about justice such as whether the instance of establishment triggers *vulnerability* by carrying adverse valence in respect of minority citizens. Again, the idea here is that the religiosity of a symbol is not itself the determinative. A nativity display in front of a courthouse might carry exclusionary

valence whereas a Renaissance artwork littered with Christian motifs might not (Laborde 2017, 138).

Finally, even if not problematic on the foregoing dimensions, religious commitments cannot be established where this would mean establishing value-commitments which are *comprehensive*. While this might sound like an analogising between religion and the liberal category of comprehensive doctrines, the idea here is rather that of state limits on incursions into the private sphere of personal ethics regardless of whether that incursion flows from comprehensive or public reasons. This can be better understood in connection with the disaggregated category for free-exercise with which I conclude this section.

Complimenting the disvalue (category) of comprehensiveness by defining the individual sphere of non-interference is the (value) category of integrity - or more specifically "integrity-protecting commitments" (or "IPCs"), which Laborde advances as the normatively relevant category for free-exercise (*ibidem*, 203). As with disestablishment, while a full elaboration of this and its integration into broader considerations of justice is beyond present scope, the central idea is the protection of practices or acts (including voluntary inactions) which enable individuals to lead lives with integrity: In accordance with how she thinks she ought to live" (*ibidem*, 204). Since integrity is closely tied to the values of "identity, autonomy, moral agency and self-respect" it is, Laborde explains, "grounded in widely shared values that are not sectarian... valued as good both by religious and non-religious citizens" (*idem*).

IPCs then are a category of ethical salience that are precise in capturing the values that underlie free-exercise justifiable within the liberal-egalitarian norms of restricted neutrality. Importantly, IPCs are not coextensive with religion meaning that not all religious commitments will warrant special protection as IPCs just as much as some non-religious commitments will. Laborde concedes that there is a resemblance here to the levelling-up proposals such as from Nussbaum (2008) or Maclure and Taylor (2011) introduced in Part 2, yet maintains that since IPCs extend not just to beliefs but also more mundane but integrity-serving identity-embodied practices, her proposal overcomes various disanalogies and biases such that of privileging orthodoxy over orthopraxy (2017, 215).

Disaggregation thus reveals how no one dimension is entirely coextensive with 'religion'. The interpretive dimensions identified apply

equally to non-religious analogues such as politically vulnerable gendered, sexuality or racial identities, or comprehensive doctrines. Consequently, to the extent that religion or any other analogue does not violate liberal norms expressed in these dimensions, it need not be singled out for disestablishment (*ibidem*, 144) nor free-exercise (*ibidem*, 203).

4. *Religion, salience and the state*

While these refinements, as will further emerge, are no trivial feat, disaggregation ultimately fails to resolve the paradox and confronts substantially the same problems as other levelling-up proposals which it merely shifts to deeper ground. To understand why and how, requires dissecting the question of ethical salience more carefully.

Though often overlooked, asking what is the ethically salient category in fact involves asking two closely-related questions: one about *coverage* – or what the nominated category comprises – and one about *basis* – or what makes the nominated category ethically salient. And while easy to conflate given that basis will typically determine coverage and instances of anomalous coverage might undermine the proposed basis, the questions are distinct.

4.1 Coverage

To illustrate the issues of coverage, examine the perfunctory example of helmet laws and the Khalsa Sikhs. In brief, numerous liberal jurisdictions contain laws mandating helmet-wearing for motorcycle riders. These laws are justified by appeal to neutral, public rationales like road safety and do not directly or latently target or discriminate against Khalsa practices. Indirectly, or incidentally, however, Khalsa Sikhs face a disproportionate burden to the average citizen: the observance of the *kesh* prevents wearing a helmet and thus being able to lawfully ride a motorcycle without contravening their beliefs. Liberal states thus typically grant exemptions to remove such burdens.

If religion is an inadequate category of ethical salience, then differential treatment such as this appears precluded by liberal neutrality pending normatively relevant justification. Specifically in terms of *coverage*, the category of religion covers more and/or less than what is ethically salient. To reme-

dy this, an alternative category might be proposed offering coverage more aligned with all that is ethically salient to the exclusion of all that is not. So, for example, if "religiosity" too narrowly excludes analogous commitments, perhaps the category should instead be the deontic nature of belief.

It might be objected, however, that this unjustifiably excludes non-deontic but nevertheless deep commitments such as those of belonging to a collective identity. Nominating collective identity as the relevant category might rectify this, but still prove under-inclusive when it comes to an individual with analogously deep commitments not based on a collective identity and at the same time over-inclusive in capturing a range of collective identities whose beliefs/practices are inconsistent with the helmet law. The inclusion of anarchists and bikies with an organisational commitment to helmet-less riding might be problematic if one does not consider these sufficiently analogous to the Sikh.

Even if dropping the communal aspect might fix the under-inclusiveness, it is not clear that "deep commitments" – and for that matter other possibilities – resolve the over-inclusiveness or other forms of under-inclusiveness. Would an associational charter or the threat of group alienation or retribution make an anarchist or bikie commitment analogously "deep", "deontic", "onerous" to that of a Sikh? If one is to resist these analogies for inclusion, one needs further resources for differentiation.

The upshot here is that each modification of coverage triggers its own (dis)analogies. Returning specifically to religion, the same kind of coverage dynamic has already been canvassed in the paradox. Essentially, what troubles liberal-egalitarians about singling out 'religion' (conventionally understood) over isomorphic secular interests is that evidently like things are not treated alike. In this regard, the fuller significance of disaggregation with regard to coverage should now be clearer. Constructing the ethically salient category upon a precise set of interpretive values/disvalues allows Laborde's disaggregation approach to coherently articulate the coverage of differential treatment free of the imprecision and anomalies of under/over-inclusive coverage plaguing analogising levelling-up strategies. This is indeed a considerable merit of the disaggregation approach and a key part of what makes Laborde's contribution to these questions so valuable.

Nevertheless, there remains the further question of basis or justifying the nominated category as ethically salient. And it is here that the differences between disaggregation and other levelling-up proposals quickly dissipate.

4.2 Basis

As explained, questions of basis often run concurrently with coverage, but basis reaches deeper still. Even supposing that a nominated category of ethical salience were to somehow succeed in capturing all and only a clear set of closely analogous interests (with no anomalous exclusions/inclusions), there remains the question of what makes that category ethically salient in the first place? Why communal belonging? Why deontic nature or religiosity? Or profoundness? And so on. It would be (amongst other things) circular to simply insist that this category yields the desired coverage. The answer must be able to justify the basis by appeal to some relevant value without needing further such appeals so as to encounter a problem of infinite regress or circularity.

More than that, being an answer within the liberal-egalitarian framework, whatever justification is ultimately given must also be compatible with the norm of state neutrality. This is no trivial requirement. While perfectionist or comprehensive liberals might seek to avoid infinite regress by reliance on some defensible substantive value(s), such prospects are defeated for liberal-egalitarians given neutrality's elimination of all but a narrow range of public/political values (see further below).

How then does the disaggregation approach justify its bases of coverage and in what way does it purport to depart from other liberal-egalitarian solutions, particularly of the levelling-up trajectory?

Central to Laborde's justification was 'restricted neutrality', which it was argued (contrary to the incoherent notion of 'broad neutrality'), permits judgments of ethical salience. Yet, how exactly might that be?

As the term itself implies, the ethical *salience* of something is determined against foundational background values. For our purposes, this would be the norms of liberal-egalitarian political morality, one such norm of which is state neutrality. Indeed, it is neutrality that makes ethical salience a "challenge". Beside neutrality are, of course, other foundational norms: for instance, the basic rights and liberties of movement, speech, association, even conscience and religion as well as respect for persons or the more general liberal commitment to the maximal set of liberties consistent with the same for all others. Interests in conflict with one or more of these norms might be precluded from having ethical salience for special protection, but perhaps will have ethical salience for special constraints.

While there may be several different liberal-egalitarian accounts as to the foundation of these norms and the exclusion of contradictory ones, there is nevertheless a key commonality: the norms are compatible with each other, including (crucially) state neutrality. By this I do not mean that liberal foundational norms are mutually complimentary such as, for instance, within a communitarian paradigm where certain norms of gender identity might compliment or reinforce other norms like traditional division of labour. This sense of compatibility would be patently too strong considering that many norms of liberalism – including foundational ones – frequently conflict as, for instance, in the pertinent case of ministerial exemption for all-male clergies wherein religious liberty and antidiscrimination norms are in tension (see Quong 2011, 205).

My claim, however, is sufficiently moderate to accommodate these kinds of tension because the alleged compatibility is a deeper, structural one. Tensions between liberal foundational norms are not instances of mutual exclusivity in a global sense such as between the norms of polygamy and monogamy or due process and summary execution. Instead, as Quong's example in fact shows, the tension is localised in discrete spheres. In contrast to the global exclusivity of the above examples, religious liberty and non-discrimination are broadly aligned except where the discriminatory practice coincides with the religious one. Outside these localised tensions an underlying structural compatibility persists. Non-discrimination, for example, often protects religious liberty much like neutrality protects from state interference in individual expression and freedom to form associations and so on. As Quong's own analysis corroborates, the tension represents a foundational rather than justificatory disagreement: it is a priority conflict within a shared normative framework ("a plausible balance of political values" cross-addressed to each other "as to why one public value ought to be prioritized over the other in cases of this kind" *ibidem*, 207-209).

Thus clarified, the asserted compatibility of foundational norms is evident in the pertinent distinction alluded to in Part 2, namely between the freedom of conscience and religion as foundational norms harmonised with state neutrality and as categories for *differential* treatment of religion (or analogous interests) which occupy a far more ambivalent position to neutrality Consistent with this, the ethical salience challenge can be seen as concerned with the ethical salience of interests nominated for

differential treatment and not with ethical salience *in general*. The distinction proves to be of critical significance with regard to Laborde's disaggregation approach, as we are about to see.

4.3 Jurisdictional boundary

One way of approaching the distinction just raised is through a brief exposure of the second of Laborde's named challenges to liberal-egalitarianism's analogising. This is the *jurisdictional boundary challenge*. Introduced in Part 3, the challenge concerns the necessity of a sovereign state making judgments of ethical salience in the process of applying or demarcating various categories of ethical salience. In this respect, the challenge has already been implicit in the earlier discussion of coverage. Categories of ethical salience are interpretive and capable of significant departure from their conventional semantic designations. Is a fervent anarchist 'religious' in some sense? In what sense is the Sikh commitment profound or even deontic that cannot be said of the bikie?

The deeper concern of the jurisdictional boundary challenge, however, is that it runs all the way down, pervading even the core political categories and foundational values. Laborde illustrates this with the example of justifications of liberal state neutrality as to positions on the permissibility of abortion. Essentially, by remaining neutral and leaving the matter to individual choice, the state already passes non-neutral value judgments such as not ascribing standing/interests to fetuses (Laborde 2017, 80).

Determinations about what is or is not a comprehensive doctrine, public/private, religious/non-religious, good/right and so on occur at a meta-ethical or meta-jurisdictional level where neutrality offers no guidance as to how such demarcations should be made. This has already been exhibited by the examples in Part 3, such as whether ecological protection can be construed as a public reason concern or an imposition of a comprehensive environmentalist doctrine. As Laborde emphasises, such meta-jurisdictional judgments are bereft of reliance on neutrality or any other foundational values.

Though the jurisdictional boundary challenge uncovers the underlying instability of even core liberal normative categories, its all-pervasiveness is also what makes the challenge largely inconsequential.

Laborde's own confinement of this challenge to the specific issue of mediating conflicts between private associational and public norms attests as much. All normative proposals are caught in it and so the challenge ends up redundant – much like a metaphysical theory denying physical matter proves in connection with the actual building of a house.

4.4 Ethical salience: general and differential

Nevertheless, what is crucial about the jurisdictional boundary challenge concerns the earlier distinction between ethical salience in general and ethical salience in regard to interests nominated for differential treatment. If, as Laborde points out, the jurisdictional boundary challenge reaches all the way to judgments of ethical salience and neither neutrality nor like foundational liberal norms offer guidance as to how such judgments should be made, then Laborde's own argument about restricted neutrality effectively represents an instance of the jurisdictional boundary challenge.

To explain, at the point of adopting the distinctively liberal-egalitarian value of neutrality, the sovereign state has already necessarily engaged in prior value judgments adopting some over other possible conceptions of neutrality (or even other conceptions of the good). Indeed, and complimenting Laborde's reason for drawing on restricted neutrality, the jurisdictional boundary challenge incidentally serves as a block to the infinite value-regress problem and thus persists at various stages of interpreting and structuring the core norms (as Laborde's aforementioned abortion example seeks to illustrate).

The problem, however, is that not every judgment of ethical salience is made in the manner of those which set foundational norms such as the content of neutrality or various conceptions of the good. Some judgments of ethical salience, namely those concerning categories for differential treatment, are made within an already set normative context – against the background of antecedent judgments of ethical salience like the foundational norms. To treat every judgment of ethical salience as an entirely *de novo* sovereign act would be to confuse the general possibility – or even necessity – of ethical salience judgments with specific instances thereof. In other words, the jurisdictional boundary challenge does not imply that subsequent judgements of ethical sa-

lience are entirely independent of or render preceding ones redundant. Accordingly, when it comes to salience concerning the basis for differential treatment it is a salience by reference to the background norms.

Nonetheless, Laborde's references do not always heed this distinction, resulting in equivocation as to 'ethical salience'. When Laborde introduces the ethical salience challenge the sense invoked seems to correspond to the salience in reference to background norms like restricted neutrality (*ibidem*, 6, 42-43, 48, 198). Yet, in her argument relying on restricted neutrality to defend the basis of the nominated values/disvalues Laborde's references to ethical salience take on the general sense disclosed by the jurisdictional boundary problem whereby the liberal state's antecedent commitment to neutrality does not end the capacity to make subsequent judgments of ethical salience (*ibidem*, 41, 71, 107, 131, 200-201). True as this may be, it does not mean, that such subsequent judgments of ethical salience are entirely unrestricted in possibilities. Crucially, the relevant background norms such as in the content of restricted neutrality do (as the first sense confirms) exert influence on subsequent judgments of salience, including potentially prohibiting *certain* kinds such as about differential treatment. In short, Laborde may be right that restricted neutrality does not outright preclude judgments of ethical salience, but this does not mean that restricted neutrality precludes none or allows *all* kinds of ethical salience judgments. This is what the distinction tracks and what Laborde does not consistently follow.

Accordingly, even if something like IPCs are supported by liberal-egalitarian norms of restricted neutrality as Laborde claims (*ibidem*, 204), the foregoing distinction suggests that this does not automatically mean that these norms also allow the state to endorse the ethical salience of IPCs for differential treatment. After all, as levelling-down liberal-egalitarians might point out about the Sikh case, being unable to comply with the neutral, publicly justified law does not threaten anyone's ability to live with integrity: there is no legal requirement to contravene custom or faith, which remains fulfilled by merely refraining from (lawfully) riding motorcycles (Barry 2001, 44-45). There may certainly be issues as to justice or equality here but these are separate matters. The present point is that differential treatment that is not grounded in neutrally justifiable or 'public reason' norms not only does not follow from but can even be precluded by the very (*antecedent*) ethical salience of (restricted) neu-

trality. Simply insisting that beyond its foundational, integrated role of precluding directly oppressive or discriminatory laws, integrity grounds differential treatment is to effectively endorse it as a perfectionist value inconsistent with liberal-egalitarian neutrality even under Laborde's 'restricted neutrality' corrective.

Similarly, with the disestablishment disvalue triad there is an underlying reliance on foundational norms like restricted neutrality which undermines their justification or basis. The choice of accessibility (or March's typology) as opposed to other epistemic standards (or typologies) can only be justified by appeals to what one takes as salient in the relevant conception of restricted neutrality. This is particularly vivid with the vulnerability category as a manifestly all-pervasive category. Exclusionary valence charges pervade political life: war memorials carry exclusionary valence with regard to pacifists, sanctioning capital punishment does so for Catholics and so on – all of which highlights the inadequacy of vulnerability for demarcating differential treatment without interpretive guidance of the very background norms against which ethical salience is proposed. Thus, what can and cannot be differentially disestablished does not transcend what is implicit in foundational norms like neutrality and is inevitably caught in jurisdictional boundary problem as part of interpreting them.[10]

To be sure, the problem here is not the familiar administrative or judicial difficulty of giving specific interpretation/application to general categories (does a tax on 'breads' include cakes and pizzas? does 'literary works' copyright cover phone directories and computer algorithms? Etc.) and there is no expectation on Laborde's account to comprehensively answer each instance of applying a category like IPCs or vulnerability etc.

Instead, the problem fundamentally concerns the *basis* of ethical salience with respect to categories for differential treatment: why does (against background or foundational norms) category ABC have salience for differential treatment as opposed to XYZ etc.?). As seen, though Laborde has shown restricted neutrality to offer the *general* possibility for judgments of ethical salience, this cannot automatically establish such

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[10] Quong comes near to this point in his remark that Laborde's disaggregation is primarily helpful only because it corresponds to her pluralistic view of what makes a legitimate state (2021, 50).

judgments concerning categories for differential treatment. This is not to say the *basis* for Laborde's proposed categories could not be derived from liberal-egalitarian restricted neutrality, only that it has not been presented. Indeed, uncovering the equivocation and contesting the assumption that restricted neutrality yields the ethical salience categories *sui generis*, it seems that, beyond the internal compatibility of foundational norms, further categories require independent substantiation to show compatibility/integration.

Restricted neutrality, as Laborde rightly identifies, is necessary if core liberal-egalitarian norms like freedom or equal citizenship and disvalues like sectarian justifications or coercion are to have ethical salience for protection/exclusion respectively. Yet, it is also precisely because neutrality already secures many of the fundamental liberal rights and freedoms that the basis of further ethical salience like differential treatment proves challenging. In fact, as alluded to earlier in discussing integrity in the Sikh case, this reveals a further important challenge unaddressed by the disaggregation approach.

4.5 A final challenge? Exemptions-justification

Whereas the discussion so far has focused on the justification of particular values/disvalues, the unaddressed challenge concerns the justification of the very form of special protections per se. This might therefore be labelled the *exemptions-justification-puzzle*. Although this paper cannot give full consideration to this puzzle, it is still worth mentioning because of its orthogonal treatment by Laborde and its indications as to a further limitation of the disaggregation approach.

Differential treatment in the form of special protections such as accommodations or exemptions to general laws of uniform application poses a coherence problem. Claims for special protections (or 'exemptions' which I will henceforth use as the representative type) presuppose that the relevant law is legitimate upon the applicable liberal-egalitarian principles – for example, being neutrally or publicly justifiable. Indeed, were the law not legitimate the issue would be illegitimacy – not exemptions. Thus, the Sikh exemption claim to helmet laws is essentially about the indirect or incidental effect of the otherwise legitimate law concerning a publicly justifiable rationale: namely, road safety.

Incidental effects, however, are a ubiquitous feature of laws which will invariably burden some more than others. Noise curfew regulations disproportionately affect those inclined to party rather than sleep, road speed limits mostly inconvenience those with a penchant for speeding and so on (see Barry 2001, 34-35). Since it would presumably be incoherent to grant an exemption in respect of any incidental effect of any law, there should be some principled basis for determining which incidental effects warrant an exemption and which do not. And yet, if, based on the above, the principled basis should also come from the neutrally justifiable or public reason grounds on which the relevant law was justified, it would appear that the combination of legitimate law and exemptions thereto is an incoherent one. If there is really a valid basis for exemptions, then it is the law which requires amendment or repeal.

To be sure, the puzzle here does not affect all exemptions nor imply that there can never be exemptions to laws. Rather, for want of a better term, only 'cultural' exemptions are at stake. 'Cultural' here is intended in the broadest possible sense including ethnic, gendered, religious, doxastic and other like grounds. What is actually relevant is that these are not going to be part and parcel of the public rationale of the law as an exemption for medical use to a law criminalising the relevant narcotic substances would be. Whereas both the law and medical exemption belong to the publicly justifiable safety/harm-prevention rationale, an exemption to the same narcotics law on the basis of any of the aforementioned "cultural" interests would be extraneous to that rationale, triggering the puzzle.

Whatever disaggregation achieves in isolating discrete values for special protection, thereby stands orthogonal to the exemptions-justification-puzzle which, as just seen, concerns the coherence of special protections more generally. Interestingly, despite recognising its existence, Laborde explicitly sidelines this puzzle in her argument, emphasising her exclusive concern with "religious exemptions qua religious" (2017, 307).[11] It is only in an oblique comment on this theme

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[11] At n. 2 Laborde writes: "Conclusion 3 could be reached through a different argument – for example an argument that purports to show that exemptions *per se* are incompatible with equality or the rule of law. Although I do not think those arguments generally succeed, I do not discuss them in detail here, as I focus on the specifically liberal egalitarian concern with religious exemptions *qua* religious".

that Laborde suggests that certain indirect effects of neutrally-justified laws which significantly burden IPCs would be unjust (*ibidem*, 201).[12]

5. *Concluding remarks*

Examining the paradox with which this paper began, it was observed that the liberal-egalitarian dismissal of religion as *uniquely* special triggered the ethical salience challenge wherein responses analogising religion with other liberal categories proved ineffective and Laborde's alternative strategy of disaggregation offered promise.

Dissecting this challenge further into questions of coverage and basis, revealed that though disaggregating religion into discrete values/ disvalues, yielded a much more coherent coverage not vulnerable to anomalies and latent sectarian biases of analogising, the differences between disaggregation and other levelling-up proposals dissipated owing to the failure to conclusively justify the basis of disaggregated categories concerning ethical salience for *differential* treatment.

Thus, the disaggregation strategy effectively shifts the paradox to deeper ground where matters of justification meet justice and coherence as the exemptions-justification-puzzle disclosed. Do the disproportionate burdens incidentally imposed by otherwise legitimate general laws constitute an injustice upon relevant religious groups or cultural minorities? Or, is it in fact unjust to differentially constrain or protect certain interests but not others? And, to the extent that these questions interact

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[12] Although Laborde does not further elaborate, her prior reference to "strains of commitment" (2017, 201), suggests she has in mind something like the argument rehearsed by Quong (2006), namely neutrality that allows incidental burdens which are intolerable under impartial consideration could not secure rational commitment to a fair system of social cooperation (*ibidem*, 60). Differential treatment like exemptions is therefore required as a matter of justice in certain cases viz. where the law makes it impossible for an individual to combine their reasonable commitments with civic opportunities like employment or education (*ibidem*, 61). Whatever its merits might be, being aimed at the justice rather than the coherence of exemptions, this argument too leaves the primary challenge of the exemptions-justification-puzzle unanswered. I return briefly to the concern with justice in the concluding remarks.

with issues of equality amongst citizens, what kinds of metrics of equality should be used and construed on the liberal-egalitarian framework?

In concluding this paper, it is worth reflecting just how substantive and deep such questions prove to be. Essentially embedded here are foundational disagreements as to the requirements of justice and the nature of equality. These are genuine philosophical questions of significant independent value. Yet, they are also seemingly intractable or at least run parallel with non-philosophical public sphere debates on the same regulatory issues regarding religious and cultural interests. This sounds unpromising for a workable, practical solution to the regulatory paradox.

It does, however, prompt a certain reflection: the political nature of this paradox calls for a political solution. That is, a solution which can withstand reasonable disagreements about justice and ethical salience. But what might such a political solution be? And how could it bypass questions of justice that seem so central to the legitimacy of political power on the liberal view?

As mentioned, these questions cannot be answered in this paper. Rather, in closing, only a speculative suggestion can be put forward. Notwithstanding the independent philosophical value of solving the above questions of justice, it is worth noting that the answer might prove entirely moot should it be that the state cannot legitimately act in accordance with the answer. This would yield a lateral solution to the paradox based on pre-emptively demarcating what the state is permitted and not permitted in regulating in relation thereto.

This might seem untenable though, given that liberal principles of legitimacy already cover these questions and, as noted, the complications of differential treatment arise consequentially from the operation of legitimate laws. Interestingly, however, legitimacy is near invariably construed in relation to the exercise of political power in terms of law or decision-making whether legislative, executive, or judicial. Yet, few (if any) laws – especially the non-arbitrary, liberally-legitimate kind – are exhaustively specified. Rather, their applications and effects must be shaped in actual instances of implementation. And yet, it is far from clear how the theories or principles of liberal legitimacy, oriented towards decisions and law, apply to discerning the legitimacy of each application and effect. It is typically assumed that the legitimacy of laws/decision-making covers all reasonably intended or

conceivable applications whereby the discernment task is not theoretical but real-world judicial.

The key to the political solution then begins with querying this and disentangling liberal legitimacy as between the exercise of political power in general and its exercise or operation in specific instances of application. The distinction is significant in two ways. First, given that it is in the effects that the complications of justice and differential treatment reside, if legitimacy were to preclude this in certain cases coinciding with ethically salient differential treatment cases like Sikh exemptions to helmet laws there could be lateral resolution as outlined. Second, given at least foundational consensus as to the basic principles of liberal legitimacy like public justification, if such principles could be extrapolated to discern when a legitimate law operates with legitimate or illegitimate effect that consensus might be deployed further in support of the lateral solution.

The immediate obstacle to such a proposal is that even if much of the above set-up holds, the indeterminate variety of effects seems fundamentally incommensurable with the general nature of principles of legitimacy. The hurdle is indeed significant, but as disaggregation has shown, there may yet be a possibility for a refined analytic solution here such as discerning discrete common features or categories of effects. In light of the foregoing observations, the implications of achieving this for the regulatory puzzle would, be immensely considerable.

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Jack Madock

The Irreplaceability of Place: What We Lose When We Lose Our Homeland

1. *Introduction*

Anthropogenic climate change has already begun to alter our environment. In the coming years, this situation will only become more grave for small island states. Think of Tuvalu or Kiribati. These states will, in all likelihood, lose their supply of fresh water, experience increased flooding and erosion, decrease food production, and experience a worsening of the health of the population (Carr *et al.* 2013). Eventually, life in these places will simply become impossible. The sea could in time swallow these islands whole leaving those who have made their lives there stateless, homeless, and at the mercy of the international community. This is doubtless a tragedy. It is also a serious puzzle for normative political philosophers and theorists of sovereignty, responsibility, and compensation. This article makes two central claims. First, that a homeland is among a special set of irreplaceable goods based on ways of valuing both historically and personally. Second, that in light of this conclusion compensation may be impossible for such a good on either of the traditionally endorsed forms of compensation.

In making these claims, I will outline what I believe to be missing from accounts of the loss of a homeland, namely the idea of the homeland as an irreplaceable good. I will propose that a homeland is historically valuable, personally valuable, and sacred. For this argument, I will rely on theories of value from G.A. Cohen, Ronald Dworkin, and Erich Hatala Matthes. I then discuss proposals for compensation which focus on either individual rights, territorial rights, or the loss of the home. I

show that none of these proposals fully meet the burden of reparation. I next posit that it is perhaps the concept of compensation itself which fails and analyze Robert Goodin's theory of forms of compensation. I close with a discussion of restorative justice and look for ways to move forward in the wake of our significant moral failures.

2. W*ays of valuing*

Many of the things we use in our lives are instruments. That is, they allow us to attain some other good in life with their help. The computer with which I currently write for example is a tool which I use to research, write, and sometimes entertain myself. With that said, despite the inconvenience of replacing it (assuming my work is backed up somewhere) I would not regret its loss and subsequent replacement with a new one. In this way then, this computer and many other objects in our lives, are like Erich Hatala Matthes' umbrella (Matthes 2013, 37). An umbrella is used to keep us dry in the rain, and in the absence of certain features an umbrella may possess, such as historical significance, then we normally feel no regret if we need to find a new one. Most of this is obvious, but what is at stake here is the idea that sometimes an object's replacement can be: "[…] *just as good*, and specifically good *in the same way* (original italics)" (*ibidem*).

There are many ways that the places we live are also tools, or instrumental goods. A homeland for example is a piece of earth on which we can move our bodies, breath air, and sustain our lives. A home on that same land is a shelter where we can be safe from external elements, meet our basic needs, cook, and clean ourselves. When a homeland is lost or destroyed, these are important things to restore for the inhabitants. But homelands are also more than tools. There is of course a feature of homelands (at least for many or for most of us) that we would feel was not merely instrumental. We would perhaps feel an attachment to our places especially if those places have certain features.

I said earlier that what was at stake was when replacements of goods could be as good and good in the same way. But what is really at stake here is when an object's replacement can *never* be just as good or good in the same way. Matthes defines this as the irreplaceable for which he

provides a simple principle: "Irreplaceability (IR): An object is meaningfully irreplaceable if and only if *all* candidate substitutes would fail to be valuable in the same way as the original" (Matthes 2013, 38). This principle is intuitive in many ways but it demands further explanation. What is it exactly that makes something irreplaceable? And can we count a homeland as among those things? I will argue for a three-fold principle of irreplaceability. This will be comprised of historical value, personal value, and sacred value.

3. *Historical value*

For my purposes, I am inverting Matthes' discussion. In his paper, he searches for what makes something historically valuable and on the way to doing so considers irreplaceability as a candidate feature. Looking at this from the other direction, we can see that historical value is also a way of rendering something irreplaceable. Matthes posits historical value as representing a connection to the past (Matthes 2013, 63). It is important on Matthes's account that these objects are valued more so than would be simply reflecting on the past. He rightly points out that while it may be special to remember a place or a thing it is certainly better to possess it or to be able to visit again. Finally, Matthes importantly distinguishes historical connection from mere age. These items should be historically meaningful and thus any old thing does not quite meet the mark (*ibidem*). These features make a good case for a homeland being among these goods. They offer a connection to the past, are not trivial objects, and being able to return to them is better than their memory simply living on.

This connection to the past as it concerns a home is already present in Heidegger, who writes of the way that a home becomes a dwelling by creating a context for generations of people: "[…] and in this way it designed for the different generations under one roof the character of their journey through time" (Heidegger 1993, 362). This feels like a feature of irreplaceability and it applies just as well to homelands as it does to individual or family homes. Just as a home provides and colors this character so too does a homeland. Imagine for example a coastal society. It is plausible that they may feel a deep attachment to this specific place on

earth. They may even have traditions and symbolic ways of life that are bound up with the geographical space such as rites of passage involving the tides or the beach. They may have specific foods, which rely on a proximity to the ocean, that symbolically mark times of the year, major life events, or communal celebrations.

It strikes me that this is an obvious quality of a homeland that stands outside of its instrumental value. The land may be the repository of memories, and it may be important that certain sites are visited at specific times. There may be a sacredness surrounding the knowledge that one's ancestors walked and lived on exactly the patches of land on which one now stands. This too would be irreplaceable if lost and thus stands outside of the instrumental value of a homeland. This then is a first element of my concept of the irreplaceability of a homeland, a homeland is historically valuable and thus irreplaceable.

4. *Personal value*

There is also an element of individuality or particularity in the irreplaceability of homelands. For example, it seems intuitive that if you lost your homeland then mine would not be an adequate replacement for you. While mine would certainly have the historical and irreplaceable value for me, it would be merely instrumental for you. You would feel no attachment to your past being present on my homeland and it would simply afford you the instrumental value of a place to live. In this way homelands are not irreplaceable in the same way a Rubens painting is irreplaceable. It seems that the irreplaceability of the Rubens painting is not effected by who it belongs to at a given moment. Instead the historical irreplaceability of the painting is impersonal. This is disanalogous with a homeland, they are in some important sense then non-transferable goods.

With this in mind we should also incorporate G.A. Cohen's notion of "personal valuing" which encompasses an individual's relationship with a specific thing (Cohen 2011; Matthes 2013, 40). For Cohen, we do not simply want replacements or even full optimization in most situations. Typically we prefer what is ours, or what is already there as these things are personally valuable to us and have the history we are familiar with

(Cohen 2011, 221). This type of valuing relates back to a sense of belonging which we can participate in if we maintain contact with the good in question: "We want the past to be present among us. We do not want to be cut off from it. We rejoice in our contact with the culture of *our* past" (Cohen 2011, 223). Further, for Cohen this type of personal value also constitutes a reason to preserve the good in question even if it is not personally valuable to oneself. Personal value being present at all in an object is thus good reason to avoid its destruction (*ibidem*).

We could also refer to this as "unique value" following Christopher Grau (Grau 2004, 119). This type of value simply applies to our perception of the uniqueness of the object we value and its relationship to us. In Grau's case he speaks of a beloved person (*ibidem*). But Grau's theory can apply beyond people to even objects and animals. "In other words, there are objects that we attach to such that we are reluctant to accept a substitute, even when that substitute is an exact qualitative duplicate" (Grau 2004, 121). For my purposes, it seems like it is not such a far leap to include a homeland in this category. The point being that even a perfect replica, a "cloneland" if such a thing were possible, would still fail to offer a fully adequate replacement. There is something special about the place where I live which is similar to the way that my beloved is special. I would not, in the tragic circumstances of her death, accept an identical replica as replacement. This simply would not do for reasons that are more intuitive than logical. Similarly, my homeland has a specific personal value which is a case for its preservation on its own. Combining Cohen and Grau leads me to posit a second pillar of irreplaceability, that is homelands are personally and uniquely valuable.

5. *Sacred value*

Because of the way homelands are valued as personally and historically significant, as irreplaceable and uniquely valuable, I also want to say that they are sacred on the conception of sacred offered by Ronald Dworkin (Dworkin 1994, 73). For Dworkin, the sacred is born of his distinction between incremental and intrinsic value, incremental meaning we aim to have as much of the good as is possible. If we believe that a home is of incremental value, that would oddly commit us to building and creat-

ing as many as possible. In contrast, I mean to say that a home is more so sacred. "The hallmark of the sacred as distinct from the incrementally valuable is that the sacred is intrinsically valuable because – and therefore only once – it exists" (Dworkin 1994, 73-74). Thus, once a homeland has been imbued with meaning in the ways discussed above, it takes on a sacred value. This can help us to make sense of exactly why even a perfect replica would fall short. One's homeland is a sacred thing for them. Its destruction violates something which they may hold dear and its loss is a tragedy.

So then, we have a three-fold principle of irreplaceability which applies to homelands. They are historically valuable in the way that they provide a connection to the past. They are also personally and uniquely valuable in the sense that while your homeland and mine may both be valued similarly, one's homeland has a specific value to them that cannot be replaced by someone else's or a replica. Finally, homelands are sacred in that once we have one it seems like we should treat it as inviolable and regard the loss of it as a tragedy.

6. *Some objections and clarifications*

It may be useful to stop briefly to make clear some things that I am not claiming. It is important to note that I am intentionally stopping short of claiming that these features of historical, personal, and sacred amount to intrinsic value, or to ends in themselves. I find that while this form of irreplaceability does get down toward the base of the object, it fails to get all the way down. In this sense, homelands are still a derivative good and fall short of being valuable for their own sake or good as the "chief good" that grounds the good of all others (Aristotle 2009, 1094a).

G.E. Moore proposes a test which we can use to determine if something is relationally good or good on its own. For Moore: "We *can* consider with regard to any particular state of things whether it would be worthwhile that it should exist, even if there were absolutely nothing else in the Universe besides […]" (Moore 2005, 83). It seems intuitive that homelands don't pass. Following this test, homelands then could not be of intrinsic value. A universe simply full of homelands without the people to inhabit them sounds somewhat absurd, and certainly does

not sound as good as one full of people who value their places in life. The value of a homeland then is based on the value of persons and their specific conceptions of the good life.

Further, it is imaginable that for some a homeland has none of these qualities. I can envision a situation where for a variety of reasons someone might feel no connection to her homeland, or may even at times feel a revulsion towards it. With this in mind I do not mean to suggest that the features of irreplaceability put forth above automatically inhere in a homeland. They instead require a person or persons to imbue them with such value.

Regardless, I do think that valuing our homelands as irreplaceable is somewhat the norm. Those who truly do not care about them may be the exception that proves the rule. So then, it follows that when we lose a homeland as those who inhabit small islands soon may, we are the victims of a very significant harm. Moreover, this is a harm that has gone relatively unaddressed by theories that aim towards reparative justice and compensation. In the following section, I will discuss the compensation packages on offer and highlight their focus on individual or territorial rights. I will then discuss theories which appreciate the scale of the loss of a homeland and advocate for prevention. Finally, I will challenge the dominant paradigm that currently aims to repair what has been broken through compensation.

7. Forms of compensation and rights

The forms of compensation which are already on offer typically correspond to a restoration of either individual or territorial rights. I will first discuss those that cover individual rights. Matthias Risse specifically addresses small island states (Risse 2009). Risse defends a right to relocation as compensation for the loss of land from climate change. For Risse, this right is based on a concept of humanity's collective ownership over the earth which he believes entitles those who have lost their land to relocate to a new piece of land. In another theory, Heyward and Ödalen propose a free movement passport for the territorially dispossessed (Heyward and Ödalen 2016). This amounts to the right to migrate to a state of choice for climate refugees and is based on the threat of

statelessness and lack of recourse in the international realm owing to
the disappearance of their home state (Heyward and Ödalen 2016, 5).
These forms of compensation aim to restore individual rights. In Risse's
account displaced people can migrate to a new state and are able to
have their rights to safety and security ensured under this new regime.
Heyward and Ödalen advocate for additional rights flowing to individ-
uals as they are given this new form of free movement. Both of these
proposals however still bring the displaced under the purview of a new
state and thus remain silent on the loss of the homeland itself and the
irreplaceability of this good.

Other proposals aim at a restoration of jurisdictional territory rights: "A
territorial right may be understood as the spatial component of a self-de-
termination right […]" (Dietrich and Wündisch 2015, 85). One often ac-
quires individual rights without necessarily acquiring territorial rights.
Once migrants are welcomed into a state under legal conditions they are
typically afforded rights to own property and make the choices that come
along with that, but are not afforded rights to self-determination. Territo-
rial rights then constitute the rights to legislate on one's own behalf, set
border policies, trade agreements and other typically state level compe-
tencies. Dietrich and Wündisch's theory of territorial compensation aims
to restore these territorial rights. In their proposal, displaced small islands
states have their self-determination restored by being ceded an entire
swath of territory from polluter states (Dietrich and Wündisch 2015). This
amounts to being able to re-establish their own state on land which was
previously part of a polluter state. Cara Nine has her own proposal aimed
at restoring territorial rights. Nine adapts her argument from the Lockean
proviso over property ownership to the territorial state system. For Nine,
based on this condition, when a state losses its territory due to rising seas
we may be obligated to re-make national boundaries in order to carve out
a new territory to restore their self-determination (Nine 2010). These theo-
ries then address both individual and territorial rights, yet still fail to focus
on the irreplaceability of the loss.

There are certain theories that have addressed the idea that the loss
of a home is irreparable such as those of Rebecca Buxton (2019), Kyle
Fruh (2021), and Avner de Shalit (2011). Fruh incorporates testimony
from displaced people and draws attention to the fact that the harm of
displacement is in a sense a "[…] scar never really healed" (Fruh 2021,

108). Buxton states that we should not forget that: "Perhaps nothing can truly repair the loss of home, just as no amount of money could ever compensate for the death of a loved one" (Buxton 2019, 211).

The main proponent of the irreparable nature of this harm however is Avner de Shalit. In de Shalit's theory, he builds from Amartya Sen's concept of capabilities and functions. For Sen it is important to measure global equality in terms of capabilities, or the material freedom to live as one wishes (de Shalit 2011, 311). De Shalit posits then that the loss of place, or even the threat of this loss, impedes these critical functions by threatening a sense of identity (de Shalit 2011, 317). When the place from which one comes has totally disappeared it becomes impossible to return. This makes it more difficult for the place to maintain its position as a piece of one's identity than it would be if the place were vacated temporarily (*ibidem*). De Shalit argues that any attempt to replace the function of self-identity will fail as it cannot be fulfilled by a new place and it is incommensurable with alternative methods of compensation, such as money (de Shalit 2011, 321).

My disagreement is with de Shalit's theoretical grounding, not with this conclusion. On my view, the idea that a loss of a sense of place can impede or wholly destroy critical functioning still fails to see beyond the instrumental value of the home. My conception is much closer to a position de Shalit takes up when addressing objections to his theory. He offers that place is: "[…] vital to human identity because it bonds us to our values, history, personal and collective memory, language, and natural surroundings, to things we are familiar with and at ease with" (de Shalit 2011, 318). I agree with all of this, but argue that even this summary seems to treat the homeland (or place in de Shalit's terminology) as a mere instrument which provides us with *access* to certain other goods. I have instead argued that the loss of a homeland is irreplaceable and is itself tragic. For my argument, I need not appeal to the functions that a homeland may serve. My claim is instead grounded in the idea that the homeland itself is among a special class of irreplaceable goods. In this way, my theory moves the claims further away from the instrumental value of homelands. It points to the idea that what is destroyed is truly a loss and one that does not need to rely primarily on the instrumental value of the homeland. I find that it is often this instrumental value that leads to misconceptions in the possibility of compensation. Most theo-

ries, as I have shown above, tend to restore merely what homelands can accomplish for people such as territorial and individual rights. De Shalit's theory, while getting closer to the irreplaceability, still fails to fully appreciate a homeland for the level of importance it has in a human life.

What I have aimed to show in this discussion of existing proposals for compensation is that these two spheres of rights, the individual and territorial, cannot fully address the loss which has occurred for small island states. The proposals for compensation on offer thus all fail to meet the burden of restoring what has been lost. In the next section I will discuss compensation in general and show how it is perhaps the concept itself, not what is offered, which fails the displaced peoples. In doing so, I will look at Robert Goodin's work on compensation and show that neither of his established forms represents a live option in the case of a loss of a homeland. After establishing this, I will work out a positive proposal that may be better suited to address the loss of a homeland.

8. *The failure of compensation*

For Robert Goodin, compensation comes in two forms. These are alternatively means replacing and ends-displacing compensation. Means replacing compensation provides the injured party with: "[…]equivalent means for pursuing the same ends[…]" (Goodin 1989, 60). We can follow Goodin in calling this Compensation$_1$. Alternatively, there is ends-displacing compensation which compensates people by: "[…]helping them pursue some other ends in a way that leaves them subjectively as well-off overall as they would have been had they not suffered the loss at all" (*ibidem*). Goodin calls this form Compensation$_2$.

Compensation$_2$ relies on what Goodin refers to as the indifference curve (Goodin 1989, 64). This could be a loose constellation of goods such that when we grant them as compensation, their value taken together lifts the receiver over a threshold of indifference regarding the harm they have suffered. In other words, any combination of goods aiming at ends-displacement can push someone over the determined level to reach indifference. In Compensation$_2$ it does not matter which goods are offered so long as the point of indifference is reached. Owing to this, Compensation$_2$ will always be an inferior form of compensation. It will

necessarily involve the rearranging of people's preferences around what they can be offered in equivalence of what they have lost. Compensation$_1$ is therefore preferable. It dodges the challenges levelled against Compensation$_2$ and restores those injured back to their original state (Goodin 1989, 67).

There are, of course, situations where Compensation$_1$ is simply not possible. In the case of irreplaceable goods, the nature of the goods themselves precludes the possibility of this precise form of compensation. In these cases, Compensation$_2$ will be the only option available. "There being no close substitutes for objects that are irreplaceable, it is impossible to compensate people in the first sense should those things be lost. All we can do is to compensate them in the second sense, offering them goods with different characteristics, speaking to altogether different desires, and yielding altogether different satisfactions" (Goodin 1989, 65).

Oddly enough, it feels as if many of the proposals examined above still advocate for some form of Compensation$_1$. That is, they offer the injured party alternate means for pursuing the same ends, the protection of individual and territorial rights. This constitutes a central problem with the approaches as they exist. They still treat the homeland as an instrument mainly capable of achieving the protection of individual and territorial rights, thus missing the irreplaceable value of the homeland. Only once we appreciate the homeland as an irreplaceable good can we truly see the misfit of attempts at Compensation$_1$. While attempting to use means replacing compensation, these theories treat the homeland as a mere means.

In this sense then this may be a special harm which is perhaps irreparable by traditional forms of retributive compensation. It is widely accepted that certain forms of Compensation$_2$, like money for example, would be completely inappropriate in the situation of climate displacement. It is less accepted, however, that forms of Compensation$_1$ would be just as inappropriate. In other words, it seems that goods that aim to replace means would be just as unacceptable as goods that mean to displace ends. We can think of examples like a new homeland, or moving to a new location. It is telling that Goodin himself uses the home as his example of an irreplaceable good. In his case he refers to one's physical house when speaking of the public policy decision of whether or not to build a third London airport. Goodin shows that eight per cent of residents in the proposed area reported that they would not move for any

price (Goodin 1989, 74). On my view, this implies they would certainly not move if offered a new house in a different location, or the opportunity to live in multiple houses at once, or the chance to pick up their house and take it someplace else. These hypothetical forms of Compensation$_1$ correlate with many of the examples of compensation proposals already existing. It seems that once we have established that a homeland is irreplaceable even attempts at Compensation$_1$ feel as inappropriate as those at Compensation$_2$. By attempting Compensation$_1$ these theories are thus ignoring the irreplaceable value of the homeland.

What is really at stake here for me is the claim that in certain situations involving irreplaceable goods it is not possible to compensate for the loss, full stop. In Compensation$_1$ the homeland is treated as a simple means to an end, or as an instrument. In Compensation$_2$ the attempt at reaching indifference is wholly insufficient and inappropriate. It is also possible that sometimes simply offering Compensation$_2$ may inadvertently become another facet of the harm. By offering someone money in exchange for the right to destroy her homeland we may symbolically reduce the value of her homeland to its market or instrumental value. This constitutes another failure to appreciate the homeland as an irreplaceable good.

Goodin does not mention this point about Compensation$_2$. He does acknowledge the difficulty of Compensation$_1$ and thus converges with de Shalit in advocating for prevention above all else in these cases. I think however that still something else is needed. Prevention is best, without question, but in our world it is a risky bet at best. The call for prevention also ignores that fact that in many cases this harm is not hypothetical. Already around the world climatic conditions have begun to deteriorate causing many to move away from where they once made their lives. This points to the urgent need of finding ways to move forward in the wake of the failure of traditional compensation. In the following section, I will discuss some possible alternatives or complements to compensation from the domain of restorative justice.

9. *Moral failures and compensation; reconciliation and apology*

It seems then like compensation (either 1 or 2) cannot quite meet the moment regarding the loss of a homeland. It is obvious that once a

homeland is appreciated as an irreplaceable good it can never be compensated for with Compensation$_1$ (as Goodin would agree). What is more, Compensation$_2$ may feel inappropriate in situations involving irreplaceable goods, and may even demean or belittle the victim. Prevention is certainly ideal but it is not always a live option when considering the current global situation.

We need to offer something else to these groups who will in all likelihood lose their irreplaceable homeland. I see one obvious direction to follow. In place of a pure discussion of compensation, we could spread awareness of our moral shortcomings and include other non-compensatory notions like reconciliation and apologies. This could take the form of truth and reconciliation commissions the likes of which are in place in Canada, for example.

On my view, attempts at reconciliation through an organized body can be a meaningful expression of genuine remorse. Studies have gone so far as to claim that the restorative aspect of justice can perhaps do more to promote reconciliation than retributive justice (Clark 2008). Truth and reconciliation commissions (TRC) are typically an: "[…] official, temporary, non-judicial fact-finding body set up to investigate a pattern of abuses of human rights committed over a number of years" (Stanton 2011). TRCs are an established form of restorative justice which has different aims then retributive justice. These aims include such things as encouraging and promoting healing, learning, moral improvement, communal interest and engagement, respect, repair, transformation, responsibility, and apology (Braithwaite 2002; Allais 2011).

What a TRC really boils down to is a thorough attempt at finding out exactly what went wrong, who is responsible, and creating a formal and public apology for said wrongdoing. This would still not restore the irreplaceable good of a homeland that has been lost. In light of the failure of other forms of compensation however, it may be appropriate to aim for a type of response which is non-compensatory in nature. At least this form of restorative justice can fully acknowledge the harm that has occurred and put into the open the wrongs that have been committed. By doing this it is possible that the international community leaves open a space for genuine healing in the face of an irreparable harm.

To be clear, I do not mean to suggest that these non-compensatory responses can replace compensation altogether. It is obvious that the displaced will still need somewhere to go when they lose their home-

land, and I seriously doubt that simply apologizing and acknowledging the harm done can fulfill this duty. I am making the much more modest claim that attempts at restorative justice can perhaps slightly nudge compensation that is inadequate towards something better. Forms of compensation which feel inappropriate, insufficient, or offensive could perhaps have this swamped when coupled with genuine attempts at reconciliation. For example, if we offer relocation to refugees from small island states as means replacing compensation we could combine this with a commission on reconciliation like something from Canada or South Africa. This could help to appreciate the homeland as irreplaceable and would be better than offering only compensation.

10. *Conclusion*

I have argued here for two central claims. The first is that a homeland is an irreplaceable good. This is because it is historically valuable, personally valuable, and sacred. The second claim is that neither Compensation$_1$ nor Compensation$_2$ are capable of meeting the burden of reparation. I also noted that the current matrix of proposals for compensation owed to climate migrants is left wanting. By focusing on either individual or territorial rights these proposals fall short of appreciating the gravity of the harm caused by climate change displacement. When this harm is appreciated it is still not for the idea of the homeland as an irreplaceable good, but instead for the instrumental value of what it provides to inhabitants. We therefore should begin to conceive of a homeland as irreplaceable outside of its functions.

In light of these claims, I have attempted to show that we should shift our focus from compensation to forms of restorative justice. We of course are unable to fully abandon attempts at compensation. We will have to restore the means by which displaced people can realize the ends of protecting their rights. I then addressed the idea that at times forms of Compensation$_2$ may contribute to the harm by belittling or demeaning the victim. I finally proposed that we may be better able to appreciate the harm that has occurred and save attempts at compensation by coupling it with restorative justice in the form of truth and reconciliation commissions, or other forms of public acknowledgment and apology.

The irreplaceability of a homeland is the main thrust of my argument, and I believe it is important that we begin to conceive of homelands in this way. It is often the focus on the instrumental or functional value of the homeland that causes proposals of compensation to feel incomplete. I acknowledge that positing a homeland as irreplaceable is a large and morally significant claim, it implies that it will be much more difficult than we previously thought to make right some of the wrongs of climate change. My hope is that further research can sort out some of the puzzle I have created here. Regardless, it is important to understand the full scope of the harms that have been done by climate change. Without taking full stock of what has been lost, that is acknowledging the loss of something irreplaceable, we will not be able to move forward in the wake of these harms.

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FRONTIERE LIBERALI

Critical Exchange | La banalità dell'odio[1]

di Giulia Bistagnino

Spesso di fronte ai discorsi d'odio ci si indigna e ci si scatena animatamente contro coloro che li pronunciano. Quando si sentono certi epiteti e determinate frasi terribili, discriminatorie e offensive può sembrare talvolta inevitabile strabuzzare gli occhi e infuriarsi nei confronti di chi tali frasi ha pronunciato. Del resto, per chi ha a cuore i valori democratici, il pluralismo e l'inclusione, sentire certe frasi non può che ispirare forti emozioni e suscitare un marcato sdegno: chi si permette di apostrofare una persona con l'appellativo di *zingaraccia* solo perché appartenente al popolo rom, lasciando così intendere che non ci sia niente di sbagliato ad avere comportamenti violenti nei confronti di tale gruppo[2], sembra effettivamente un maleducato, un incivile, un mostro. Ma se così non fosse? Se chi utilizza il repertorio linguistico del discorso d'odio non lo facesse perché crede, ma solo per un mero interesse politico? È questa la tesi portata avanti da Corrado Fumagalli nel suo bel libro *Odio pubblico. Uso e abuso del discorso intollerante* (2020). Secondo questa prospettiva, considerare un mostro chi pronuncia discorsi d'odio nel dibattito pubblico non ci aiuta né a comprendere

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[1] Commento a *Odio pubblico. Uso e abuso del discorso intollerante*, di Corrado Fumagalli, Roma, Castelvecchi, 2020.

[2] Si pensi alla frase pronunciata da Matteo Salvini: «Ma le pare normale che ci sia una zingara di un campo rom abusivo vicino a Milano, a Baranzate, una zingaraccia che dica: "Salvini dovrebbe avere un proiettile"? Preparati che arriva la ruspa amica mia, tu preparati ad accogliere la ruspa, cara la mia zingara, poi vediamo» (Redazione Sky Tg24, 1 agosto 2019).

meglio tale fenomeno, né tanto meno ad arginarlo. Il discorso d'odio è, secondo Fumagalli, una pratica ordinaria – in questo senso banale – che intende innescare, rinsaldare e consolidare un legame, una cooperazione tra chi parla e il suo uditorio. Chi utilizza il discorso d'odio intende attivare una serie di parole chiave, evocare un immaginario e una simbologia capaci di assicurare e costruire un consenso. In poche parole, i *portatori d'odio* utilizzano il discorso d'odio per rinforzare relazioni sociali e, nel caso di leader politici, per assicurarsi un seguito e così portare avanti il proprio progetto politico. È chiaro che da questa concettualizzazione del discorso d'odio discendono considerazioni normative che escludono soluzioni di contenimento diretto del discorso d'odio (Brettschneider 2012), per esempio attraverso l'istituzione di norme legali che lo mettano al bando (Waldron 2012). Al contrario, pensare che il discorso d'odio sia qualcosa di banale significa girare la prospettiva e togliere il fuoco dai portatori d'odio per accendere la luce sull'uditorio, ovvero sui cittadini ordinari che possono offrire un terreno fertile per il successo dei discorsi d'odio, oppure ribellarsi e manifestare il proprio dissenso.

In quel che segue, vorrei discutere brevemente alcuni degli argomenti proposti da Fumagalli. Da un lato, intendo mettere sotto pressione la sua proposta normativa, cercando di mostrare come richieda molto di più dalle persone e dalla società di quello che sembra trasparire dal libro. Dall'altro, vorrei mostrare come la sua concettualizzazione del discorso d'odio possa in realtà applicarsi a tutto il discorso politico. Si tratta di uno strumento interpretativo potente e che, vorrei suggerire, potrebbe aprire alcuni filoni di ricerca interessanti.

2. Domanda, *offerta e obblighi dei tolleranti*

Come anticipato, la tesi centrale del libro di Fumagalli è che il discorso d'odio non debba essere considerato una anomalia della politica, ma una pratica ordinaria che arriva ad avere successo solo quando si è creata una situazione tale per cui certe parole intolleranti riescono a fare breccia nell'opinione pubblica. È troppo facile imputare la degenerazione del dibattito pubblico a chi pronuncia discorsi odiosi: se un certo linguaggio, certi ammiccamenti, certe parole hanno presa è

perché vi sono cittadini disposti ad accoglierle e che ne condividono il senso e le allusioni[3].

Per sostenere questa tesi, il libro avanza un argomento che affonda le sue radici nella filosofia del linguaggio e, in particolare, nei principi fondamentali della pragmatica e della teoria degli atti linguistici di John L. Austin (1962). In modo più sofisticato di quanto mi è possibile ricostruire qui, Fumagalli sostiene che ogni discorso pubblico d'incitamento all'odio risponde a una logica di domanda e offerta che può essere compresa a partire dalla descrizione della *situazione di discorso d'odio*, intesa come «uno stato di cose indotto dal proferimento di parole d'odio in cui chi parla ha una ragionevole aspettativa di andare a segno» (42). La situazione del discorso d'odio è caratterizzata da cinque elementi fondamentali: *il portatore d'odio* è colui che, comunicando ed esprimendosi nei modi che preferisce, immette nel discorso pubblico contenuti proposizionali odiosi; i *bersagli* sono coloro a cui il discorso d'odio allude, sono cioè coloro che il portatore d'odio vuole colpire attraverso l'attivazione di parole chiave che possano risvegliare pregiudizi, tabù e fantasie negative; vi sono poi *i cittadini intolleranti* e *i cittadini tolleranti*. I primi sono quei cittadini che si riconoscono nel discorso d'odio, che condividono le disposizioni su cui il discorso d'odio si fonda e, quindi, «ved[ono], gradisc[ono] e mostra[no] apprezzamento» (44) nei confronti del portatore d'odio. I secondi, invece, costituiscono un gruppo variegato che comprende sia i cittadini veramente tolleranti, ovvero coloro che rifiutano e manifestano apertamente il proprio dissenso nei confronti del discorso d'odio, sia *i cittadini tolleranti in apparenza*, ovvero coloro che, pur non manifestando apertamente la propria attitudine, accettano silenziosamente il discorso d'odio nei confronti dei bersagli. Infine, la chiave di volta della situazione del discorso d'odio – e ciò che permette a tale discorso di avere successo – è il *terreno comune*. Con questa nozione si fa riferimento a quelle credenze condivise, a quei sentimenti e atteggiamenti comuni a due (o più) parlanti che consentono loro di scambiarsi informazioni ed entrare in comunicazione. Nel caso del discorso d'odio, quindi, è l'esistenza e la

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[3] Questo ragionamento non vale solo per il discorso d'odio, ma per qualsiasi forma di imbarbarimento generalizzato del discorso pubblico e del lessico politico.

diffusione di credenze, disposizioni ed emozioni negative nei confronti dei bersagli – quello che Fumagalli chiama *terreno comune intollerante* (50-54) – a rendere possibile ed efficace il discorso d'odio. Senza il terreno comune intollerante nessun portatore d'odio si assumerebbe il rischio di pronunciare un discorso tanto controverso e divisivo, che potrebbe mettere a repentaglio il proprio progetto politico. Al contrario, il discorso d'odio funziona e viene utilizzato solo se esiste un numero rilevante di cittadini intolleranti e apparentemente tolleranti.

Da questa caratterizzazione del discorso d'odio discende una proposta normativa che riguarda i cittadini tolleranti. Se effettivamente il discorso d'odio centra il bersaglio ed è efficace perché certi pregiudizi e certe attitudini sono arrivate a essere legittimate nel discorso pubblico, l'antidoto deve essere quello di lavorare sul terreno comune intollerante, di provare cioè a scardinare quei capisaldi che lo compongono. L'idea è che vi sia un obbligo di controparola che è però condizionale nella sua formulazione: «*solo* chi vuole essere riconosciuto come un vero *tollerante* ha l'obbligo di agire» (108, corsivo nell'originale) e quindi di impegnarsi, da un lato, a prendere le distanze dai portatori d'odio e, dall'altro, a parlare ed entrare in dialogo con i cittadini intolleranti.

Questa formulazione dell'obbligo di controparola è convincente non solo nel non richiedere che siano i bersagli stessi a rispondere al discorso d'odio – strategia onerosa e fallimentare[4] –, ma anche nel rintracciarne il fondamento nella condivisione di una causa, di un progetto. È perché credono che una società tollerante sia una società giusta che i cittadini tolleranti devono assumere il compito della controparola[5]. Nonostante

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[4] Poiché i bersagli sono individui che fanno parte di gruppi vulnerabili è facile che siano sottoposti anche a forme di ingiustizia epistemica che potrebbero condizionare la percezione di loro stessi come inadeguati, ma anche rendere la loro parola screditata nel discorso pubblico.

[5] Sembra in effetti che Fumagalli abbia in mente un obbligo di natura associativa di tipo volontaristico, ovvero un obbligo che alcuni individui hanno in quanto appartenenti al gruppo tollerante, in quanto si riconoscono in un determinato progetto politico. Obblighi associativi di questo tipo sono solitamente pensati per gli iscritti a un partito politico (Bonotti 2017) ed effettivamente Fumagalli sembra avere in mente qualcosa del genere quando scrive che «il tollerante assomiglia più a un tifoso» (113).

questi meriti[6], ritengo che si tratti di una posizione molto più radicale di quella che il libro sembra suggerire e che richiede cambiamenti sociali consistenti e, di conseguenza, piuttosto difficili da realizzare. Non mi riferisco tanto all'idea che i cittadini tolleranti debbano mostrare il proprio dissenso nei confronti del discorso d'odio e così dimostrare che questo «non costituisc[e] una mossa conversazionale rappresentativa delle [proprie] disposizioni verso i bersagli» (116). Non richiedendo di zittire i portatori d'odio o di convincere i propri concittadini intolleranti, i cittadini tolleranti devono semplicemente trovare il proprio modo di differenziarsi e così lanciare un messaggio.

Piuttosto, a essere onerosa dal punto di vista non solo personale, ma anche sociale è la richiesta che i cittadini tolleranti parlino e si confrontino in modo costruttivo con i cittadini intolleranti. Fumagalli individua con precisione una serie di problemi che precludono la possibilità di una discussione sensata tra tolleranti e intolleranti. I primi, infatti, rischiano sempre di impartire lezioncine, di impugnare principi morali ed evidenze scientifiche come fossero armi contundenti, di utilizzare strumenti retorici che non permettono uno scambio paritario. Così, la sua proposta è di partire da considerazioni mondane, che riguardano la vita di tutti e che, in questo senso, sono di interesse per tutti. «Le preoccupazioni di vicinato, la scuola dei figli, il calcio, il prezzo della frutta, il lavoro, il ritardo del tram, la pizza e il caffè sono materia di infinite discussioni, frivole quanto volete, ma conformi all'obiettivo dei tolleranti» (119).

A questo punto vorrei sollevare una questione che nel libro non è affrontata. In particolare, vorrei concentrarmi sull'effettiva possibilità di intrecciare conversazioni tra tolleranti e intolleranti rispetto a temi mondani, come proposto da Fumagalli. Mi sembra infatti che, perché tolleranti e intolleranti possano effettivamente confrontarsi con profitto su tali questioni e costruire così un insieme di pratiche e di significati comuni, sia necessario che la loro vita sia estremamente più intrecciata di quello che accade oggi nelle società democratiche. Per esempio, è un fatto che persone con condizioni sociali simili e che spesso hanno anche idee simili rispetto a problemi come quello della discriminazione che muove il di-

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[6] Si tratta di una posizione meno controversa del ritenere, per esempio, che sia lo stato a doversi impegnare in prima persona nel controdiscorso. Per una proposta in questo senso si veda Lepoutre (2021, cap. 3).

scorso d'odio, vivano in zone ben definite. In un contesto come quello italiano, per esempio, i portatori d'odio tendono ad avere maggiore successo elettorale nelle periferie e meno nei centri cittadini (Cini *et al.* 2021). Per questa ragione, sembra che, perché la proposta di Fumagalli possa davvero funzionare, bisognerebbe pensare ad alcune misure impegnative, come per esempio quella dell'integrazione residenziale, ovvero la creazione di quartieri in cui vi sia un alto tasso di diversità, in cui cittadini con *background* socioeconomici e identità culturali differenti vivano a stretto contatto. Si tratta di un'idea interessante e particolarmente studiata negli Stati Uniti (Ray Sin 2015), ma che comporta anche notevoli costi, sia in termini di praticabilità, sia rispetto alla libertà che ciascun dovrebbe avere di vivere dove preferisce. In questo senso, mi sembra che la proposta di Fumagalli possa essere efficace nel portare il confronto tra tolleranti e intolleranti su questioni concrete e riguardanti la vita delle persone, ma che tale mossa richieda un ripensamento delle possibilità di interazione tra i due gruppi. In fondo, per poter discutere sensatamente delle "preoccupazioni di vicinato" o "della scuola dei figli" bisogna condividere il vicinato e mandare i figli alla medesima scuola[7]. Ovviamente, con questo discorso non intendo sostenere che la proposta di Fumagalli non sia giustificata o che sia incoerente, ma segnalare quanto sia onerosa e complessa, poiché richiede grandi cambiamenti sociali che sono difficili da realizzare.

3. D*omanda, offerta e politica straordinaria*

Come già spiegato, per Fumagalli il discorso d'odio è una pratica ordinaria perché, attingendo da credenze e attitudini che sono già presenti nel contesto politico, funziona in una logica di domanda e offerta. Questa caratterizzazione è interessante per due ragioni. In primo luogo, come indicato nella sezione precedente, è una prospettiva che rimette al centro i cittadini, mostrando come quello democratico sia sempre un gioco cooperativo,

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[7] Si potrebbe avanzare un argomento simile rispetto alle discussioni online. Se è vero che i social network hanno il merito di abbattere i confini geografici e fisici è anche vero che spesso esiste una grande omogeneità tra interlocutori su internet, esemplificato dal fenomeno delle delle *echo chambers*. Anche in questo caso, il tipo di intervento che permetterebbe un confronto variegato tra tolleranti e intolleranti online non sarebbe certo di entità trascurabile.

in cui oneri e responsabilità sono condivise e non appannaggio completo degli attori politici. In secondo luogo, offre una certa concezione del discorso politico in generale. In effetti, in quest'ottica, sembra che tutto il discorso politico possa essere considerato ordinario quando si muove nei binari di domanda e offerta. Vi sono due aspetti che vorrei approfondire a partire da questa idea di discorso politico e che credo indichino due temi che potrebbe valere la pena investigare in futuro.

Il primo punto che vorrei sollevare riguarda la questione della leadership politica e di come questa possa essere interpretata e concettualizzata. Politici capaci di esercitare la leadership in modo autentico sono politici che non si limitano a essere dei *broker leaders* (Burns 1978), ma che cercano attivamente di modellare il consenso portando l'elettorato ad accettare la propria visione del bene politico. In due parole, sono leader politici coloro che non seguono il consenso, ma lo creano: avere leadership politica significa essere in grado di cambiare le attitudini, le credenze e le emozioni dei cittadini nella direzione che si ritiene giusta per il compimento del proprio progetto politico.

Seguendo l'argomento di Fumagalli potrebbe sembrare difficile pensare che un politico possa cambiare le attitudini degli elettori. Se è vero che il politico si muove nella logica di domanda e offerta perché il suo fine è quello di essere eletto[8], potrebbe sembrare difficile immaginare che questi possa mai arrischiarsi a cambiare quel terreno comune che permette il dialogo con l'uditorio. In questo senso, la categoria della leadership politica, intesa come la capacità di creare il consenso e non farsi guidare da esso, potrebbe sembrare in un certo senso vuota perché mai veramente razionale da perseguire. In realtà, credo che una visione più approfondita della concezione di Fumagalli permetta di spiegare anche il fenomeno della leadership.

Se il vero leader politico è colui che sta «nel folto della mischia con l'intenzione di servire i cittadini anche a costo di scontentarli momentaneamente» (Besussi 2007, 35), questo significa che egli è disposto ad assumersi il rischio di andare contro le attitudini dei suoi concittadini e mettere a repentaglio la propria carriera politica per fare ciò che ritiene giusto. Uno dei modi per avere successo, e quindi non soccombere

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[8] Ovviamente, l'obiettivo di essere eletti non è motivato solo da ragioni di prestigio personale, ma anche perché funzionale alla realizzazione del progetto politico che si ritiene giusto.

scontentando l'elettorato, è quello di fare appello a un terreno comune che è, in un certo senso, "superiore". Prendiamo il caso della lotta per i diritti civili negli anni Sessanta. Come spiegato da Besussi (2007, 36), J.F.K. Kennedy – caso paradigmatico di leader politico – sceglie di orientare il proprio progetto politico contro la discriminazione razziale solo alcuni anni dopo la sua elezione, ovvero dopo gli incidenti in Alabama. Nel 1963 pronuncia un discorso radiotelevisivo in cui quella dei diritti civili viene posta come questione morale nazionale: come possono gli Stati Uniti difendere le idee di libertà e democrazia all'estero se esiste la segregazione?[9] Kennedy richiama l'opinione pubblica a ritrovarsi nell'idea nell'idea che giustizia e libertà siano valori che contraddistinguono gli americani, al di là di qualsiasi divisione.

A partire da questo veloce esempio, si può dire che il leader politico è colui che è disposto a scommettere sulla possibilità di trovare un terreno comune alternativo con l'obiettivo di servire la propria causa. Perché tale scommessa sia sensata, però, il leader deve avere grande intuito e coraggio, soprattutto rispetto a quella parte dell'uditorio che, secondo Fumagalli, è difficile da interpretare perché silente e che solo apparentemente ha determinate disposizioni e attitudini.

Il secondo punto su cui vorrei soffermarmi riguarda l'idea che, se la politica ordinaria segue la logica di domanda e offerta, potrebbero esserci pratiche politiche straordinarie. Mi sembra infatti che, a partire dalla caratterizzazione di Fumagalli e sulla scia di uno spirito rintracciabile nel lavoro di Hannah Arendt, si potrebbe andare alla ricerca di forme autentiche di politica, distinte da quelle invece ordinarie e banali, come il discorso d'odio. Se per Arendt forme autentiche di politica sono quelle che rifiutano la logica mezzi-fini, che rivelano il "chi" dell'attore politico ed esprimono così la pluralità dei punti di vista rispetto a questioni eminentemente politiche[10], per Fumagalli forme di politica autentica potrebbero essere quelle che pre-

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[9] «Dobbiamo dire al mondo, e quello che è più importante a noi stessi, che questa è la terra dei liberi tranne che per i negri, che non abbiamo cittadini di seconda classe tranne i negri, che non abbiamo caste, classi o ghetti tranne che per i negri» (https://www.jfklibrary.org/learn/about-jfk/historic-speeches/televised-address-to-the-nation-on-civil-rights).

[10] Per Arendt, esempi concreti di politica autentica sono: l'Atene di Pericle, la rivoluzione americana, alcune rivolte operaie del XIX e XX secolo, il movimento dei diritti civili negli Stati Uniti negli anni Sessanta.

scindono dalla logica di domanda e offerta, intesa nei termini linguistici della pragmatica. Se questa intuizione è corretta, a essere autenticamente politici, non sono solo leader politici come J.F.K., ma anche e soprattutto quei cittadini che, cercando di creare relazioni positive con i propri concittadini, provano a cambiare il terreno comune. Per tornare al libro di Fumagalli e se questo ragionamento è sensato, sono proprio i cittadini tolleranti ad agire in modo autenticamente politico quando discutono (o provano a discutere) di questioni mondane con i cittadini intolleranti e apparentemente tolleranti per creare una società giusta.

4. *Conclusione*

In questo scritto non mi sono potuta concentrare su molti dei temi presenti nel libro di Fumagalli, quali gli effetti del discorso d'odio, la concezione degli obblighi dei cittadini tolleranti, gli stati e l'attività mentale di chi riceve il discorso d'odio, il problema del contenimento degli intolleranti, la definizione stessa di discorso d'odio. Nonostante essi siano di grande interesse, ho preferito soffermarmi sugli oneri del controdiscorso e sulla interpretazione del discorso politico perché mi sembrano particolarmente rilevanti per una prospettiva teorica che voglia incidere sul mondo, come mi pare sia quella offerta da Fumagalli.

Per concludere, vorrei sottolineare alcuni importanti meriti del libro. Da un punto di vista squisitamente filosofico, si tratta di una tesi che combina sapientemente la filosofia del linguaggio con la teoria politica, riuscendo ad avanzare un argomento rigoroso, chiaro e originale. Se una prospettiva normativa sulla libertà di espressione non può prescindere dalla riflessione sugli atti linguistici, riconoscere la profondità e la capacità con cui tale dibattito viene impiegato è doveroso. Dal punto di vista culturale, invece, il libro di Fumagalli è particolarmente importante data non solo la ristrettezza del dibattito sulla libertà di espressione e sul discorso d'odio in italiano, ma anche la presenza sempre più massiccia di discorsi d'odio nel dibattito pubblico del nostro paese[11]. È proprio perché il discorso d'odio va a toc-

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[11] Quello dell'Italia non è sicuramente un caso isolato, basti pensare al seguito che ha avuto Eric Zemmour in Francia, tanto considerevole da convincerlo a candidarsi ufficialmente alla presidenza della repubblica.

care corde emotivamente tese e reattive che è importante ragionare a mente fretta e capire esattamente di cosa si tratta. In questo senso, il libro di Fumagalli rappresenta un punto di partenza importante per chiunque rifiuti questo tipo di discorsi e voglia impegnarsi per cambiare il dibattito pubblico non lasciandosi andare all'indignazione, ma affidandosi alla costruzione di relazioni di confronto, anche aspro, con chi la pensa in modo diverso.

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La replica: quello che siamo, quello che diciamo di essere

di Corrado Fumagalli

Nella sua nota Giulia Bistagnino riesce a intuire perspicacemente anche quello che è taciuto. È una gran fortuna perché il discorso d'odio non rappresenta certo una novità nel dibattito filosofico. Il termine *hate speech* ha iniziato a circolare negli anni Ottanta del XX secolo, ma la giurisprudenza di quasi tutte le democrazie occidentali si dedicava al discorso intollerante già a partire dal secondo dopoguerra. Quindi O*dio* P*ubblico* non sta facendo niente di speciale, soprattutto se teniamo conto di quanto sia faticoso tenere il passo di una pubblicistica che, forse come reazione all'ascesa del populismo di destra, procede speditissima. Linguisti, filosofi politici, sociologi, psicologi, politici, giornalisti, filosofi del linguaggio, scienziati politici, tutti ormai abbiamo qualcosa da dire sul tema del momento. Sono grato a Bistagnino perché, nonostante questo rumore di fondo, coglie lo spirito del libro. Potrebbe sembrare strano, ma nelle mie intenzioni non si tratta di un testo *sul* discorso d'odio. Il discorso d'odio è un espediente per avviare una riflessione su una società attraversata da più o meno velati istinti razzisti. Credo infatti che la teoria politica normativa possa svolgere una funzione critica troppo spesso trascurata. L'argomento normativo non impone nulla, ma aiuta a confrontare quello che siamo con ciò che diciamo di voler essere.

Viviamo in società plurali, ma non abbiamo ancora imparato a gestire il disaccordo. O almeno, questo è quanto racconta una buona parte della ricerca in psicologia sociale: evitiamo chi ci contraddice (Chen e Rohla 2018), selezioniamo le informazioni a piacere (Hart *et al.* 2012), accentuiamo la differenza di prospettive (Pacilli *et al.* 2016) ed esageriamo

i vizi delle opinioni opposte (Yeomans *et al.* 2020). Oltre a ciò, pare che i cittadini di orientamento liberaleggiante, i più entusiasti del pluralismo, preferiscano discutere e vivere con chi la pensa come loro (Bistagnino 2002, 105). Nelle ultime pagine di O*dio* P*ubblico* provo allora a dimostrare che ci sono buone ragioni per fare di più e meglio. Chi sceglie di sposare apertamente i principi della tolleranza entra a far parte di un sottogruppo del genere *liberal*: i tolleranti. I membri del gruppo dei tolleranti acquisiscono un obbligo di ruolo – l'obbligo di controparola – l'uno verso l'altro che dovrebbe motivarli a prendere le distanze da chi preferisce discorsi d'odio e a chiacchierare con quanti manifestano disposizioni odiose (Fumagalli 2020, 113-119)[1]. Secondo Bistagnino la mia formulazione dell'obbligo di controparola «richiede cambiamenti sociali consistenti e, di conseguenza, piuttosto difficili da realizzare» (Bistagnino 2022, 105). Affinché ci siano buone conversazioni tra cittadini con convinzioni molto diverse, occorre che la loro vita sia «più intrecciata di quello che accade oggi nelle società democratiche» (Bistagnino 2022, 105). La letteratura sulle scelte di voto nei centri e nelle periferie offre infatti l'immagine di una società molto divisa. Prima ancora di riflettere sulle modalità di conversazione tra tolleranti e intolleranti, lascia intendere Bistagnino, pare necessario ideare delle regole volte a favorire la diversità nei quartieri o nelle aree suburbane. Da anni la giustificabilità e la desiderabilità di queste misure hanno acceso il dibattito teorico politico. Basta menzionare il famoso T*he* I*mperative of* I*ntegration* (2010) di Elizabeth Anderson, il recentissimo D*emocratic* S*peech in* D*ivided* T*imes* di Maxime Lepoutre (2021) e la lunga serie di articoli sulle comunità interculturali. Tali regole comportano però «notevoli costi, sia in termini di praticabilità, sia rispetto alla libertà che ciascuno dovrebbe avere di vivere dove preferisce» (Bistagnino 2022, 106).

È una questione che mi sta molto a cuore perché aiuta a capire le ragioni del libro. La scelta di chiudersi all'interno di gruppi omogenei rivela una tensione tra l'idea che un tollerante ha di sé e i suoi compor-

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[1] Bistagnino loda la scelta di sollevare i bersagli dall'obbligo di controparola. Sono sempre meno convinto di quella tesi. Anzi: credo che i bersagli abbiano un obbligo imperfetto di controparola la cui giustificazione teorica poggia sul dovere di resistere all'oppressione. Sul dovere degli "oppressi" di resistere all'oppressione si veda Cudd (2006).

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tamenti in società. La messa a fuoco di queste contraddizioni, come accennato, è uno degli obiettivi di O*dio* P*ubblico* e, più in generale, del mio interesse verso certe questioni sociali e politiche. L'autosegregazione non dovrebbe essere quindi valutata come una delle tante considerazioni di contesto a cui dare il giusto peso nella costruzione di obblighi ben bilanciati. L'autosegregazione dovrebbe essere vista come una prova della necessità di continuare a premere perché i tolleranti escano dal loro perimetro di relazioni. Nel chiedere un certo tipo di interazione discorsiva l'obbligo di controparola richiede diverse azioni, dalla ricerca del contatto con individui e gruppi fino alla partecipazione in conversazioni equilibrate su temi frivoli e mondani. Questo movimento non è il risultato di un sistema di incentivi e norme calato dall'alto, bensì, se rimaniamo sui cosiddetti tolleranti, dovrebbe rispondere alla volontà di andare alle radici della domanda di discorso d'odio (Fumagalli 2021). Da questo punto di vista l'atto dell'avvicinarsi ai soggetti con cui sembra impossibile poter conversare rappresenta un esempio di condotta politica autentica. Nella letteratura sul discorso d'odio, così come in altre sfere della discussione filosofica, si tende troppo facilmente a inseguire l'eccezionalità. Si studiano misure drastiche, ci si attorciglia sulle azioni più mediatiche o, e su questo punto non seguo l'impostazione arendtiana di Bistagnino, si va alla ricerca delle tracce di politica autentica in un passato remoto. In questo modo, si perdono di vista e si svalutano le forme più quotidiane dell'attivismo politico come lo scambio verbale tra due o più persone su un tema di comune interesse o il semplice esercizio del voto democratico. Ma fino a che punto l'abbattimento delle statue, la rimozione dei simboli razzisti o la gogna pubblica possono migliorare la qualità del nostro dibattito pubblico? E se fossero solo operazioni cosmetiche?

Quando diventa uno strumento per guadagnare consenso, il discorso d'odio, cerco di dimostrare nel quarto capitolo di O*dio* P*ubblico*, dà infatti visibilità a sentimenti ormai diffusi nella popolazione. In altre parole, si deve leggere come una pratica ordinaria che riflette una logica di domanda e offerta nella quale il parlante asseconda le aspettative del pubblico. Da qui Bistagnino mi invita a considerare una possibile estensione dell'argomento: tutto il discorso politico può essere considerato ordinario quando corre sui binari di domanda e offerta (Bistagnino 2022, 107). Su questo sfondo, continua Bistagnino (*ibidem*, 107),

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i politici capaci di esercitare la leadership in modo autentico «cercano attivamente di modellare il consenso portando l'elettorato ad accettare la propria visione del bene politico». Ho paura però che nel mio modello non ci siano le risorse concettuali per accantonare totalmente le regole del gioco cooperativo. Concepisco infatti la rappresentanza politica come un continuo botta e risposta in cui il pubblico stimola, i rappresentanti interpretano gli eventi secondo certe attitudini del pubblico, il pubblico accetta o rifiuta la rappresentazione di sé[2]. In questo schema sono sempre i cittadini a ispirare o condizionare le scelte di chi se ne fa portavoce. Dunque, i politici, anche quando dimostrano grande intuito e coraggio, si distinguono non tanto per una rara pulsione innovatrice, ma per la capacità di tradurre e comprendere il non detto.

Molte questioni rimangono aperte. Anche per questa ragione non credo che *Odio pubblico* sia un punto di arrivo. *Odio pubblico* rappresenta un passaggio intermedio in una ricerca sull'*ethos* democratico che spero mi terrà occupato ancora per molto tempo.

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[2] Su questi punti si vedano i lavori di Michael Saward (2006) e Maarten Hajer (2009).

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Kim Leontiev

Disaggregating a Paradox? Faith, Justice and Liberalism's Religion

Being robustly committed to state neutrality which does not permit the promotion of liberal-perfectionist ideals and denying that there is anything normatively relevant or 'special' about religion leaves liberal-egalitarians embroiled in a paradox. *If religion is not special, how and why do liberal states afford it differential treatment* (in comparison with non-religious analogues like secular doctrines or deeply-held beliefs of individual conscience)? This paper explores liberal-egalitarian strategies for resolving this paradox with predominant reference to the disaggregation strategy advanced by Cécile Laborde. After discussing the novelty and advantages of disaggregation relative to other liberal-egalitarian strategies, the paper distinguishes between the coverage and the basis in justification of differential treatment to argue that disaggregation does not ultimately succeed in solving the latter. Despite this, reflecting on the clarifications achieved through disaggregation and the deeper issues of justification and justice emerging therefrom, the paper concludes by proposing the need to consider a lateral solution to the paradox and speculating on what this might look like.

Jack Madock

The Irreplaceability of Place: What We Lose When We Lose Our Homeland

In this article, I will address the loss of a homeland that is experienced, or will be experienced, by residents of small island states. The central claim of the paper is that a homeland is an irreplaceable good. I offer a threefold definition of irreplaceability which is comprised of histori-

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cal, personal, and sacred value. From this principle, I aim to show that compensation proposals currently on offer only deal with individual or territorial rights and thus miss the irreplaceable value of the homeland. I go on to examine compensation as a concept in the work of Robert Goodin. I review Goodin's text on forms of compensation and ultimately claim that in the wake of the loss of an irreplaceable good both means replacing and ends-displacing compensation fail. That is, they are either inadequate, impossible, or inappropriate. I also argue that in some cases ends-displacing compensation may contribute to the harm. I distance myself from claims for prevention from both Goodin and Avner de Shalit. Instead, I propose that what is most important is that we prepare for our moral failures and make non-compensatory repair in addition to attempts to compensate. This leads into a discussion of restorative as opposed to reparative justice concerning truth and reconciliation.

Dario Mazzola
Inequalities and the 'Essence' of Populism On Trends in Global Politics
The rise and the nature of populism is becoming increasingly relevant to political scientists and citizens alike. By building on recent contributions in political theory by Nadia Urbinati, Michael J. Sandel, and Chantal Mouffe among others, this article aims at exposing its roots and core. Populism is complex and composite and, as a global phenomenon, it has as many manifestations as contexts of appearance. From Russia to the US, from Italy to Latin America, populism reacts to the disempowerment of masses brought about by globalist neoliberal politics, to increasing elitism sustained by economic disparities, to changes in the methods and forms politics take, and in the needs politics is required to respond to. While dismissing, together with Mouffe, an 'essentialist' quest for definitions, the article identifies as a crucial common trait the rhetorical or authentic instauration of a renewed relationship between the populace and the governing power, while bypassing hypertrophic élites. These latter are blamed for stalemates in political reforms required by historical processes such as globalization, for hollowing out the democratic process through the crystallization of an establishment behind superficial and oftentimes symbolic party differences, and for pushing forward a hegemonic

agenda – oftentimes, a neoliberal one - that the electorate perceives as no longer or not fully responding to its exigencies. Populism presents itself in right, left, or even centrist incarnations, but this central component remains one of its defining features, and is intertwined with both circumstantial and inherent dynamics of politics affecting inequalities in wealth and power.

Marco Miglino
A Proposed Solution to the Democratic Boundary Problem:
The Relevant Coercion Account

Who is entitled to participate in the democratic decision-making process of every collective decision? This is usually called the democratic boundary problem. One of the most popular hypotheses for the solution to this problem is the so-called All Subjected to Coercion (ASC) principle. According to this principle, the relevant demos for every considered decision-making process are composed of all and only those subjected to the coercion of the outcome of the decision-making process itself. Although substantial agreement exists among proponents of ASC that coercion entails political inclusion only when it relevantly limits individual autonomy, scholars disagree on when this is the case. In this paper, I propose that to overcome this disagreement on the correct interpretation of ASC, a set of criteria for the relevance of coercion that is equally shareable for all supporters of ASC should be defined. For this purpose, I argue that the incidence of coercion in individual autonomy should be evaluated by referring to three criteria: quantitative, qualitative, and temporal criterion. I propose to implement these criteria for the relevance of coercion in a reformulation of the principle that I call *the relevant coercion account*. Once my interpretation of ASC is defined, I provide an example of its application to the case of migration norms. To this purpose, I show that when applied to the case of migration norms, the relevant coercion account prescribes that would-be migrants are included in the making of the migration norms of the receiving communities. Furthermore, I address a possible objection to this normative claim.

Biographical notes

Giulia Bistagnino is Assistant Professor in Political Philosophy at the Department of Social and Political Sciences of the University of Milan. Her main research interests concern the problem of disagreement and the idea of political compromise; the relation between truth and politics and the notion of objectivity; the relation between experts and democracy. Her work has appeared in B*iblioteca della Libertà*; E*tica&Politica / Ethics&Politics*; E*uropean Journal of Analytical Philosophy*; N*otizie di Politeia*; P*hilosophy and Public Issues*; Q*uaderni di Scienza Politica*; R*ivista di Filosofia del Diritto*; S*ocial Theory and Practice*. She is the author of C*ompromessi di principio. Il disaccordo nella filosofia politica contemporanea* (Carocci, 2018).

Corrado Fumagalli is an Assistant Professor in Political Philosophy at the University of Genoa. His work on the philosophy of hate speech and counterspeech appeared in B*iblioteca della libertà*, the E*uropean Journal of Political Theory*, P*olitical Theory*, and S*ocial Theory and Practice*.

Kim Leontiev is a PhD candidate in Philosophy at University College London (UCL) and accredited legal practitioner in Australia. His research interests lie in legal and political philosophy with regard to questions of state and individual sovereignty, legitimacy and justifications of human rights – especially freedoms of religion and conscience.

Jack Madock is a graduate student with the Institute of Philosophy at KU Leuven in Leuven, Belgium. He is originally from Chicago in the United States. His current research falls within the sub-discipline of normative political philosophy. He is particularly concerned with issues surrounding migration in both the global and domestic senses. He is

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Dario Mazzola is a postdoctoral researcher at the University of Bergen (UiB), Department of Comparative Politics, and Executive Scientific Coordinator of the H2020 PROTECT Project. He obtained his PhD from the University of Milan with a thesis on the 'migrant crisis', and was a visiting scholar at the Institute for Citizenship Studies of the University of Geneva (InCite) through a Cantonal Fellowship. He holds a B.A. and M.Sc. in Philosophy from the University of Pavia and has been on exchange at Northern Arizona University (NAU). His recent peer-reviewed academic publications include: "Free Speech and Ideology: Society, Politics, Law", *Javnost - The Public* (Taylor & Francis – Routledge, 2020); "Lenin o Rosa Luxemburg? Hannah Arendt critica della rivoluzione bolscevica", in G. Franchi, T. Forcellese, A. Macchia, *La Rivoluzione Bolscevica tra storiografia, interpretazioni e narrazioni* 1917-1924, Edizioni Nuova Cultura, Rome (2021); "Legge naturale e critica del liberalismo in MacIntyre: aspetti teorici e prospettive critiche", *Acta Philosophica* (with Sante Maletta, 2019); "The Gentle Way: Maximising Efficacy and Minimising Violence in Judo", *The Philosophical Journal of Conflicts and Violence* (2018); "Is Free Movement a Natural Right? Between the Modern State and Aristotelian-Thomist Utopias", *Studia Philosophica Wratislaviensia* (2019). He has also a book on national and global citizenship under contract with Emerald Publishing and has authored three book reviews and a number of blog posts for academic journals and websites, plus several-work-in-progress articles, including one on "Populism and the Radicalization of Democracy" (presented at the HEPP Conference on Emotions and Populism, Spring 2021).

Marco Miglino is a PhD candidate at the University of Eastern Piedmont (within the FINO Consortium). The aims of his research are to deepen an already existing dialogue between democratic theory and the ethics of migration in order to develop an account for the legitimacy of borders control alternative both to open borders and national sovereignty accounts. His principal research interests are democratic theory, the ethics of migration, the democratic boundary problem, theories of post-national democracy, liberal nationalism and republicanism.