

THE APATHETIC CITIZEN:
WHEN STATE INSTITUTIONS DO NOT REFLECT HUMAN RIGHTS
CONSISTENTLY

BY

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Statement of the problem

No one said it was easy to be consistent, and no one said it was easy to be civically engaged. Still, in some societies at some times, citizens find it easier to be engaged. Some of these times are explained by a good fit between moral beliefs and institutions, that is, by a kind of consistency. In this article, I want to explore the fit between *beliefs about human rights* and *state institutions* and see if that fit might help us understand the conceptual conditions of one kind of apathy. My hope is that understanding these conditions will then bring into the open a point about the nature of liberal citizenship –in particular, about liberal civic engagement.

The case behind this philosophical essay comes from recent United States history. Socially progressive citizens in the United States have undergone a crisis in recent years. It is increasingly hard to mobilize the country around the universal ideals that motivated the Progressive Era, the New Deal, the Great Society and civil rights. These ideals expressed

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social justice and flowed from a strong humanitarian tradition. They included morally limiting poverty and a belief in the dignity and moral equality of all humans. Hope revived with the protestors of the 1999 WTO meeting in Seattle. Progressive Americans felt an activist revival was afoot ⁽¹⁾. However, the 2004 elections were regressive, and a widely shared belief among Americans is that socially progressive citizen engagement is low, especially among young adults ⁽²⁾. From my personal experience teaching on American campuses, this belief appears to be true, but not because young citizens don't care ⁽³⁾. Rather, many progressive citizens do not see the *point* of civic engagement. This is because their attempts to influence the United States government seem pointless.

One might conceptualize the pointlessness in the following way. The United States is founded on universal, natural rights. It is a signatory of *the Universal Declaration of Human Rights*. Both of these sets of universal rights are necessary conditions on justice, which citizenship centrally aims to uphold. Yet the United States to this day refuses to submit itself to the authority of the world's emerging human rights architecture –e.g., the International Criminal Court, the criticism of the United Nations General Assembly, the inquiries of Amnesty International- and, unlike the European Union, the United States does not have a high court of human rights. Now imagine you are a liberal citizen who orients herself by

⁽¹⁾ In an interesting turn, too, non-human interests entered the movement in the coalition between environmental groups, and labor and human rights groups. See Gillian Hughes MURPHY, << The Seattle WTO Protests: Building a Global Movement >>, in Rupert TAYLOR, ed., *Creating a Better World: Interpreting Global Civil Society*, Kumarian Press, Bloomfield, CT, 2004, pp. 27-42.

⁽²⁾ See, for a recent example, Brandee TECSON, <<It Feels More Like The '60s Every Day — So Where Are The Student Activists?>>, *MTV.COM*, October 20th, 2005. Some commentators even call American college students in this decade <<Generation Apathetic>>. See, for example, Jessica McCONNELL, <<Natural Disasters Shift 'Generation Apathetic' into Gear>>, *The Tufts Daily*, October 24th, 2005. The widespread view of student apathy was made known to me at the time of an article for which I was interviewed: Zach AHMAD, <<Student Inactivism: Where Have All the College Activists Gone?>>, *The Colorado Springs Independent*, Aug. 28th-Sep. 3rd, 2003

⁽³⁾ See AHMAD, *op.cit.* On the other hand, socially regressive engagement is high. I am referring to the Christian right. See Jeff SHARLET, << Soldiers of Christ >>, *Harper's Magazine*, May 2005,

human rights norms. At the same time, you believe political participation is primarily participation in the governance of your political order. How else does one participate in a central way ⁽⁴⁾? Thus, given the anarchic state of the United States with respect to what you take to be justice, you think acting civically within the state's political order is pointless.

Thesis

My thesis is that in a society founded on universal rights, disarticulated institutions can appear to produce apathy as a logical consequence ⁽⁵⁾. However, the apathy produced by disarticulated institutions results from a mistaken idea of citizenship. Citizenship must be conceived as transcending any given political order in order for it to achieve its point, because the point of citizenship includes upholding justice. It is the virtue of human rights theory to bring this idea into the open. Once we understand the idea, we see a first duty of liberal citizenship: to create institutions that bring the state under the authority of human rights. Correctly conceived, liberal citizenship is both cosmopolitan and cosmopolitan institution building.

Method

Being trained as a philosopher, my approach will be conceptual, not statistical. The effects I will consider are not quantified. Instead, they are logically implied. One of my goals is to

⁽⁴⁾ By a “central” way, I am referring to the contrast between marginal and central political action. There are of course many ways to act as a marginal citizen in a political order, especially for progressive causes that are not endorsed fully by the state. The problem, however, is that citizenship, for reasons specified below, should aim at participating in the center of a state, as well as, on occasion, its margins. To not have a way to participate centrally in the state's governance is to, in effect, not be a liberal citizen.

⁽⁵⁾ By a “disarticulated” institution, I refer to any institution whose form or substance does not express key moral beliefs. In this article, I am concerned with beliefs that are key *from the standpoint of* citizens. So I am looking at institutions disarticulated with respect to citizens. Institutions can be disarticulated from other standpoints, too –e.g. from the standpoint of beliefs key to corporate agents or international organizations. As I will use the concept, disarticulation is a relational concept articulating the grammar of agency.

conceptualize a logical response to institutional inconsistency and to call this *apathy*. The word, however, will not denote an emotional condition. Instead, it will refer to a structural one. The structure in question is that of a citizen's agency. Accordingly, the effects in question are not empirical. They are potentials, logical possibilities that can explain empirical developments ⁽⁶⁾.

To articulate these potentials, I will use *action theory* ⁽⁷⁾. Action theory provides a good means for explaining why apathy is a logical consequence of disarticulated institutions. I will also assume some points from *human rights theory* about the authority and scope of human rights ⁽⁸⁾, because human rights form the normative horizon for my topic. Finally, as I move into the discussion of the nature of being a citizen, I will assume some claims from *civics*, because my topic in this study is civic engagement ⁽⁹⁾. My approach to civics will be indebted to some discussions in *phenomenology* ⁽¹⁰⁾.

I. Apathy

We act for a point, and the point patterns our lives.

⁽⁶⁾ Such potentials can serve as categories for the analysis of governance and citizenship. *Apathy*, for instance, is the category of the potential misfit between institutions and moral beliefs in the realm of a citizen's agency.

⁽⁷⁾ In particular, G.E.M. ANSCOMBE, *Intention*, Harvard University Press, Cambridge, MA, 2000, 106 p.; Candace VOGLER, *Reasonably Vicious*, Harvard University Press, Cambridge, MA, 2003, 295 p. I am, therefore, not taking up the tradition of action theory associated with Donald DAVIDSON.

⁽⁸⁾ In particular, I am interested in the idea that citizens acting to protect human rights invoke a higher law than the law of the state, a law whose scope is correspondingly global. See Ronald DWORKIN, *Taking Rights Seriously*, Harvard University Press, Cambridge, MA, 1977, 392 p.; and Martha NUSSBAUM et al., *For Love of Country: Debating the Limits of Patriotism*, Beacon Press, Boston, 2002, 176 p.; and Martha NUSSBAUM, << Unlocal Hero >>, *The New Republic*, October 28, 1996, 36-42.

⁽⁹⁾ Specifically, I will draw on assumptions about being a citizen rooted in the Aristotelian tradition but bequeathed to the liberal tradition and found in such liberal philosophers as John RAWLS and, the civic republican variant, Philip PITT (e.g., *Republicanism, A Theory of Freedom and Government*, Oxford University Press, New York, 1997, 304 p.).

⁽¹⁰⁾ Specifically, by Martin HEIDEGGER's phenomenology of being-in-the-world, cf., *Being and Time*, translated by Joan Stambaugh, SUNY Press, New York, 1996, 487 p.

To begin the argument, we need an assumption from action theory. Agents act for ends. Our actions have a point. This observation was studied first by Aristotle in his *Nicomachean Ethics*. << Every art and every inquiry, and similarly every action and choice, is thought to aim at some good >> ⁽¹⁾. A good, seen from the perspective of the agent, is simply an end in view. It is the reason for her act. Accordingly, acts that lack a point lack a reason.

Imagine, now, that we expand this observation to the roles by which we compose the meaning of our lives. Take the role of being a professor. Professors have a major goal: to teach. Professors do this through various minor goals –means for accomplishing the major goal. The most common of these minor goals are: (a) to do research and publish, (b) to give lectures and lead discussions. There are others, too, and each of the minor goals has sub-goals within it: means en route to accomplishing the minor goal. So a professor's life is made up of a stacking of purposes (e.g., going to the *bibliothèque* and the *librarie*, reading at night, lecturing, publishing) that fold into the major purpose of her vocation (i.e. teaching). A number of these purposes are maintained through duties.

For instance, professors teach by standing for questions and truths. In so doing, they must be truth-oriented, for we cannot authentically question or discover without being truth-oriented. In order to maintain their truth-orientation, professors have duties of intellectual integrity and honesty. It is a professor's duty to assent to truths only if they pass the test of her discipline's rigorous methodology. So professors, en route to their purpose of teaching, have a duty to be truth-oriented and to have integrity in that orientation.

⁽¹⁾ ARISTOTLE, *Nicomachean Ethics*, translated by W. D. Ross, revised by J. O. Urmson, in *The Complete Works of Aristotle: the Revised Oxford Translation*, v. 2, Princeton University Press/Bollingen Series LXXI.2, Princeton, 1995, p. 1729, 1094a1-2.

Action theory has a way of explaining how such role-based duties relate to our agency. It says duties pattern our lives ⁽¹²⁾. Duties do so in all sorts of ways, for whenever the subject of our duty arises in the flow of daily life, we must address it. Hence, as a professor at work every day, any time a matter of truth-orientation arises in any obvious way related to my field or responsibilities at work, I have a *prima facie* duty to express intellectual integrity ⁽¹³⁾. For instance, I am on my way to lunch. A colleague calls me. She wants to discuss a point that just occurred to her for an editorial she has to submit in thirty minutes. This point is in my field. Barring competing duties, I have a duty to stop my walk to the café and help her sort through the matter. The pattern of my vocation has again shaped my life. Roles give us ends and associated duties that are not one-time pursuits ⁽¹⁴⁾. Here, for instance, is a professor in the middle of the sidewalk leaning against a building and shielding out the traffic noise with a finger in his right ear while he talks on a cell-phone with his left ⁽¹⁵⁾. With a role, we have a pattern of seeking certain points, and when those points come into play, so do our roles.

Oppositely, when those points are blocked, so is the pattern, and so the role as well. The conclusion is important, for being a citizen is a role.

Being a citizen is patterned by justice.

Being a citizen is a role we members of society play, and the role patterns our lives to the extent we identify with it and uphold it. The role does so in line with the point of being a

⁽¹²⁾ See VOGLER, *Reasonably Vicious*, “Fitting”, *passim*.

⁽¹³⁾ One can hold also the view that being a professor entails a duty to be truth-oriented all the time. This is the classical understanding of an academic.

⁽¹⁴⁾ Even a kamakazi pilot, whose purpose is a one-time pursuit, has duties patterning his achieving that purpose.

⁽¹⁵⁾ French phenomenology has a way of explaining this moment in acting from duty as well. It says that the call (*l'appel*) summons our identity in a response. This matter was first investigated by ALTHUSSER, but was thematized by Jean-Louis CHRÉTIEN, *L'appel et la réponse*, Editions de Minuit, Paris, 1992, 153 p. and later by Jean-Luc MARION, *Étant donné, essai sur la phénoménologie de la donation*, Presses Universitaires de France, Paris, 1998, 396-400.

citizen. In this sense, the role is *functional*: it has a purpose. Its purpose –the point of being a citizen- is to promote and sustain a good society. Accordingly, citizens act *qua* citizens to promote and sustain a good society, and when so-called citizens do not act for this purpose, they are not acting as true citizens. Similarly, if so-called citizens cannot promote and sustain a good society from within a given institutional arrangement, they cannot be citizens within that arrangement –i.e., cannot act *qua* citizens in that arrangement, for instance, in a given political order *as* members of that order.

Now a feature of a good society is its justice. No society that is unjust can be good (¹⁶). Justice accordingly, is a necessary feature of the point of being a citizen, because it is a necessary condition on any good society. So, more specifically, being a citizen is patterned by the point of upholding justice, and when so-called citizens do not uphold justice, they are not acting as true citizens. Similarly, when so-called citizens cannot uphold justice from within a given institutional arrangement, they cannot be citizens within that arrangement. They cannot act *qua* citizens in an order that does not allow them to uphold justice.

Just as action theory allows us to understand why people do what they do in pursuit of their purposes, the purpose of upholding justice explains a number of patterned actions by true citizens. For instance, the purpose explains *duties* of citizenship. Take the duties to obey the law, to vote, to pay taxes, to keep ourselves informed, and to do community service. All these duties have a partial or total justification in the point of upholding liberal justice. We have to obey the law so that we respect the basic rules of our society. We have to vote so that the government of our society is formed fairly. We have to pay taxes so that all of us can be

(¹⁶) My assumption about justice being a necessary condition on a good society is found throughout the Western philosophical tradition, but I can at the least refer to John RAWLS, *A Theory of Justice*, Harvard University Press, Cambridge, MA, 1971, 607 p. Rawls's work does not theorize the good society, but any good society by way of exploring under what conditions any society is fair, which is necessary for it being good.

empowered enough to go our separate ways in freedom. We have to remain informed so that we can guard against tyranny and corruption. Finally, we have to do some community service –if we are true citizens- so that we remember our society is more than our own daily lives, but is a community to which we belong and whose minimal well-being is a condition of our own.

So duties of justice pattern our lives in all sorts of ways. Consider citizen behavior around stolen goods, election days, yearly tax returns, newspapers, and jury duty. Because citizens have a duty to be just and to make sure their government is also just, they obey the law, refrain from stealing and keep themselves informed by reading the newspaper. Because citizens have a duty to uphold social justice, they set aside time for yearly tax returns, and because they have a duty to uphold the legal system, they do jury duty when summoned ⁽¹⁷⁾. The point of upholding justice organizes all sorts of explicit actions and implicit responses to situations, acting as an organizing pattern that makes people's behavior intelligible. It is, accordingly, quite stressful and disorienting to have a problem pursuing citizenship directly and clearly.

Being a liberal citizen is patterned by human rights.

In a society where the constitution of the political order and the corresponding sense of justice are structured by human rights, one of the points of citizenship should be to uphold human rights as a means to upholding justice. This is an important assumption in my argument, because in liberal societies, human rights should be central to justice ⁽¹⁸⁾. When they are, human rights pattern our behavior in definite ways. For instance:

⁽¹⁷⁾ I am writing from the American context. The French context has different specific duties, but analogous ones nonetheless.

⁽¹⁸⁾ Which human rights are central is a matter of contention, but the rule of some basic human rights is central to the liberal tradition from early modernity. There, under the name *natural* rights, the state was justified in

(a) *They have universality.* Human rights have a scope that includes all humans.

Their domain is the domain of the *human* –i.e., not the *American* or the *French*.

(b) *They have supranational authority.* Human rights act as grounds that transcend a given national authority. Rather, they set the conditions for any national authority.

Without respecting them, a given nation lacks authority –or at least the authority of justice⁽¹⁹⁾.

Human rights encompass the whole of humanity and speak for it even when a state will not. This means that when liberal citizens act in civic life, they do so in light of the end of upholding universal norms of humanity that are, in principle, more authoritative than even the authority of the state⁽²⁰⁾.

We can illustrate how human rights pattern true citizen behavior by drawing on phenomenological description. In phenomenological terms, the citizens' being-in-the-world clears around matters of common humanity anywhere, and citizens see the state as making

terms of its respect for the inalienable rights of humans as such. Natural rights, just as human rights, are (a) universal and (b) able to judge the authority of the state itself –that is, they are higher and wider than the authority and scope of any state.

Having in place the framework of these rights enables liberal subjects to go about their private business confident that social life is structured so as to allow each an equal chance of exercising her freedom without impeding the rightful chance of others. When the structure of rights is undermined or inconsistent, liberal subjects cannot depend on the structure of the social world allowing each a chance to make what she will of her private freedom. It is understandable, therefore, why the structure of rights is a necessary condition on justice: on ensuring everyone her due.

⁽¹⁹⁾ This thought is nearly an ancient one, depending on one's interpretation of Stoicism and its relation to the ancient origins of modern human rights. Certainly, one may find this thought in Thomas AQUINAS –cf., *Summa Theologiae*, I-II, question 95, article 2, and question 96, article 6. Aquinas does not, of course, speak of *nations*, but of communities, and in the passages to which I've referred, he speaks of law and when laws lack authority. Yet the principle is directly analogous to the modern human rights variant: any community that does not respect natural law, including the *right* that is rational between human beings, loses the authority of justice.

⁽²⁰⁾ In principle, they legitimate any acceptable state.

sense only in so far as the state does not conflict with such matters ⁽²¹⁾. Matters of common humanity make up the *sense* of the world, what being-in-the-world is for. When states do not respect common humanity, they fail to make sense. They dislocate a citizen's being and make her feel disoriented. The world does not fit together properly. There are gaps of obscurity in it: those where states do not respect the basically human –e.g., people's right to their bodies, or their right to have a conscience that is their own; people's right to have food in their belly when food is obtainable through human arrangements.

This disorientation is aggravated when a *liberal* state does not respect human rights, for liberal states should respect human rights in order to act *qua* liberal states. Imagine it this way: the constitution of the state refers to universal norms of humanity as a condition on the legitimacy of the state. For instance, the state may depend on the claim that all human beings have rights to life and liberty. Then the state acts so that the life and liberty of a significant portion of the world are disrespected. Perhaps the state pursues a series of unjustified wars that place life in peril and liberty under the shackles of neo-colonial statecraft. Moreover, even though the state claims to justify its behavior by appealing to its foundational commitment to respect human rights, the state in fact acts (a) inconsistently when faced with the human rights violations of many of its closest allies or trade partners; (b) negligently when faced with human rights crises of genocide or ethnic scourging in part of the world in which the state has no selfish interest; and (c) illegitimately when pursuing its policies –i.e., it deliberately discounts the overwhelming majoritarian view and official condemnation of the major voices for human rights in the world (e.g., the United Nations). True citizens of this state, accordingly, will experience significant disorientation. *Either* human rights do not

⁽²¹⁾ The state is part of a referential totality of functions that are for the sake of humanity-that-ought-to-be-respected-in-any-person, that is, the fundamental understanding of humans in the liberal world. See HEIDEGGER, sections 31-32, pp. 134-144.

mean what it seems they mean according to hundreds of years of tradition and the major human rights apparatuses of the world, *or* the state is in flagrant violation of its constitutional commitments. And yet it upholds a form of those commitments to do what it does –it says it acts to protect human rights! For such a citizen in such a situation, the world is obscure and detached: points of light (matters of common humanity) drift unconnected to the political structures that are supposed to place them into a harmonious set of interlocking relations that make up being-in-the-world as a story of luminous motion.

Being a citizen is also patterned by governance.

Why is it so confusing when one's state does not act according to its constitutional commitments ⁽²²⁾? A second dimension of the role of being a citizen comes from the *means* citizens are expected to use to pursue their purpose. As members of specific political orders – in today's world, usually a nation-state ⁽²³⁾- citizens are patterned to pursue their duties *through* the paths of their political order's processes –in today's world, usually the paths of the nation-state's layered government. This is because citizens are members of the state, and because the locus of liberal politics is the self-governance of the state. This is not to say that the nation-state exhausts the conduits for political action: of course, it does not. Rather, this is to say only that, in a political order, the central conduit of political action is that order, and citizens are raised to act within it. A true citizen helps the state govern itself and relies on the state's political processes to do so.

⁽²²⁾ "Constitutional" both in the sense of the state's written constitution and in the sense of the foundational commitments that make up the state as a legitimate order with a definite normative identity. See footnote 28.

⁽²³⁾ Or, still as an exception, regions. The example of the European Union will be discussed later in the paper in contrast to the political order of the United States.

This point about process goes deep into the normative identity of citizens. True citizens think that it is *proper* to act *as* members of their state. To act as a member of a state is to articulate one's goals in terms of the state's possibilities. To act outside these possibilities, even if it is not unlawful, is uprooting: the citizen understandably perceives herself as lacking a ground for her actions. She is a full citizen only in so far as she participates in political life in terms of what is possible in the procedural life of the state. If she goes outside this procedural life, she has departed from the collective agency of the state and is no longer acting as part of the group. By contrast, to act within the state's possibilities is to structure her life in terms of the collective project to which she belongs as part of the state's corporate agency⁽²⁴⁾. *Qua* persons, we are one among many in any country, but *qua* citizens, we are one of many acting as one –at least in so far as our possibilities are circumscribed and provided by the state's patterning order. And central to that order are the institutional articulations of the state that allow citizens to pursue the point of being a citizen. Who we are, then, when we are citizens is patterned by our state's governance and in particular its procedural functioning. As a true citizen, for example, not only will I not act unlawfully (so long as laws are just), but I will not advocate political action that undermines the legislative or appeals processes of my state (so long as those processes are open to citizens).

The structural condition of apathy is produced, then, by disarticulated institutions.

⁽²⁴⁾ See VOGLER, *op. cit.* The phenomenon of corporate agency is widespread in social life and is not restricted just to what, economically, we call "corporations". Any time agents coordinate to act as parts of a larger project, they become corporate agents –actors who make sense only in so far as the goal of the group is understood, a goal towards which they play a part.

Here we have a problem. If liberal states have still not articulated the scope and authority of human rights, their identity can be skewed in serious ways ⁽²⁵⁾. It makes no sense to uphold human rights for one's own people, but *not* when the state affects people elsewhere, such as in its foreign relations and international comportment. When liberal states function abroad in terms of national self-interest, human rights end up being misinterpreted as, in effect, only *national* rights. Yet no one people ensconced in the power of their state has the authority to drown out the claims of humanity, on the *basis* of which liberal states are legitimate and *under* which state authority lies from the point of view of liberal justice. Thus the problem this study addresses is intrinsic to the formation of all liberal states just in so far as they have not created a consistent human rights jurisdiction over the state's actions abroad ⁽²⁶⁾.

Liberal states that act as strong realists in the international arena –such as the United States- generate a contradiction for the true citizens of their constituency. As liberal citizens, we should pursue a justice patterned by universal norms of humanity, but as citizens of our state, we are faced with an anarchic display of national self-interest in the international order. This means we face the cognitive dissonance of belonging to a state that applies its founding principles inconsistently by interpreting their domain in a specious way. In the place of “humans”, the state interprets “Americans” or “those who are with us, and so not against us” (i.e. pro-Americans). This makes no sense, from the moral standpoint of being a citizen. This is the first dimension of the problem that I will call “apathy”: a state's inconsistency is a moral obstacle to any true citizen.

⁽²⁵⁾ See Seyla BENHABIB, *The Rights of Others: Aliens, Residents and Citizens*, Cambridge University Press, New York, 2004, 264 p.

⁽²⁶⁾ And domestically, but that is not the main focus of this study. The citizens in question in this study are apathetic in the face of state action abroad –e.g., in Iraq and Afghanistan. By so focusing the study, I do not intend to overlook the significant number of rightless people within state boundaries –e.g, migrant workers and those unconstitutionally detained by the military or the law. See Kristen HILL MAHER, <<Who Has a Right to Rights? Citizenship's Exclusions in an Age of Migration>> in Alison BRYSK, *Globalization and Human Rights*, University of California Press, Berkeley, 2002, 19-43. See also BENHABIB, *op. cit.*

The second dimension of the problem brings out apathy more. Normally, the inconsistency of a state's actions may be rectified by the procedures of the state –either through self-governance or juridical appeals to the state's highest founding authorities. Yet if a state has not *institutionalized* the authority of human rights in processes through which its citizens can appeal inconsistencies between the state's comportment and common humanity, civic engagement appears pointless to true citizens –or so it might seem. The citizen's role is formed by the point of upholding justice, specifically a humanitarian justice constituted in part by human rights. The point of upholding universal norms of humanity shapes a citizen's being-in-the-world as a set of commitments that bring her engagement as a citizen with her country into play around matters of humanity. In fact, she should conceive of acting for her state as justified *only because* the state is conceived within the deontic necessity ⁽²⁷⁾ of universal norms of humanity. Thus her entire relation to the state is thrown into question when it acts inconsistently with its founding constitutional commitments *and* when there is no clear procedural way to appeal the matter. The state no longer appears as the legitimate and obvious means A to the end of B, that is, of justice. Acting through the state appears pointless. Even more, thinking of ourselves *qua citizens of this state* appears pointless. It does not fit with our being-in-the-world. Where are we when our state's governance closes down our being-in-the-world because it has not institutionalized a procedure for upholding the authority of human rights?

Here is a problem, one so deep citizens who grow up in the age of human rights may feel fundamentally conflicted about political participation –at the least, they are structurally

⁽²⁷⁾ Deontic necessity is the modality of necessity understood with reference to the modality of action. Something which has deontic necessary is something we *must* do. For instance, in football, we must stay on-sides. A striker who surpasses both the ball and the last defenseman is off-sides, because he has violated what he must do. Analogously, a liberal state must respect human rights at home and abroad. A liberal state that violates human rights abroad has violated what it must do.

entitled to such conflictedness. If liberal citizens are to act centrally through their state's political order and that order does not reflect human rights consistently or authoritatively, how are they to act? Patterned by the expectations of justice *and* by the governance of their state's processes, citizens have no clear way to reach their end. There is no point to acting through the state, that is, as a citizen, because the state does not uphold a main point of civic life –i.e., justice- *through its procedures*. Just so, there isn't a clear reason to act as a citizen. As we saw earlier, acts that lack a point lack a reason. So civic engagement lacks its motive.

This is the structural condition of apathy. The use of the word “structural” designates that the apathy is not necessarily felt –we would need psychological surveys to confirm such feelings. Rather, in the way a society is normatively structured to shape and engage human action, the patterning structures of the society's governance produce a block to action, that is, a condition where it appears to make sense *not* to act even though our beliefs should make us *try* to act. Apathy is a condition where acting appears pointless, even though we should act.

Disarticulated institutions create apathy. To have articulated institutions is to have the foundational moral-political beliefs of the constituency expressed consistently in the central political institutions of the society's governance. There, institutions articulate the shared political constitution ⁽²⁸⁾ of the society. By contrast, disarticulated institutions throw out of joint the fit between beliefs and institutions so that the constituency does not see their beliefs expressed in governmental institutions, the policies that surround them, and most importantly the procedural functioning of the state. The overall constitution of the society is thereby

⁽²⁸⁾ In this paragraph, I am using the concept of a constitution in a philosophical sense –one broader than the modern political use of the concept to designate the founding document and principles of a constitutional monarchy or democracy. The modern term –e.g., the European Union Draft Constitution- is a *type* of constitution in the philosophical sense of the word.

disarticulated in turn, for its political institutions and their procedure are central to it, and these are inconsistent with the political constitution of the state and of its citizens.

The society linked up with the political order –the society of citizens- is in this way a cacophony. Disarticulated societies do not make sense due to the political blurring. One always feels the tension of multiple constitutional schemes moving throughout them at odds with each other ⁽²⁹⁾, such that one has to focus first on one scheme, then on the other, to see the pattern of organized life clearly, and yet one cannot see both at once. In phenomenological terms, the world of such societies is disoriented, to adopt an expression by Gianni Vattimo ⁽³⁰⁾. To echo a song by the Clash ⁽³¹⁾: “Should I stay or should I go?” is the question that lodges in the center of civic life. Does it make sense to be a citizen here? Or should I, in some sense yet to be specified, leave this country and its conflicted, hypocritical state? The disorientation is due to a failure of governance –particularly governmental procedure- and falls on citizens in the structural condition I am calling “apathy”.

II. Civic Engagement

Apathy is infantile.

The preceding discussion could explain some citizen apathy, particularly in the United States among progressive young adults. However, this is a philosophical paper, not a statistical study of perceptions. As I said at the outset, the *virtue* of apathy so conceived is that it brings into the open a point about the nature of liberal civic engagement. As is obvious to any reader who has been an experienced citizen, the apathy produced by disarticulated institutions results from a mistaken idea of citizenship. Citizenship must be conceived as transcending any given

⁽²⁹⁾ For example, national selfishness at odds with universalism.

⁽³⁰⁾ Gianni VATTIMO, *The Transparent Society*, Johns Hopkins University Press, Baltimore, 1992, 45-61.

⁽³¹⁾ THE CLASH, “Should I Stay or Should I Go?”, *Combat Rock*, Sony Records, New York, 1982.

political order in order for it to achieve its point, because the point of citizenship includes upholding justice. It is a virtue of human rights theory to bring this idea into the open. Moreover, once we understand it, we see a first duty of liberal citizenship: to create institutions that bring the state under the authority of human rights. Correctly conceived, then, liberal citizenship is both cosmopolitan and cosmopolitan institution building, and a view of being a citizen that thinks we have reason to stop acting when the state does not uphold its constitutional commitments is in some sense infantile. It depends on the state as a parent that should do what each of us as adults have to do for ourselves –*make* the state just⁽³²⁾.

True citizenship has a non-institutionalized grounding.

It is hard to articulate the apparent paradoxes of citizenship. While being a citizen is grounded in the practices and identity of specific polities, citizenship must also be conceived as in some sense *transcendent*. That is, it must be conceptualized as transcending any particular political order so that it upholds justice, an ideal order. This conceptualization is imperative, because no political order is ideal⁽³³⁾. But even if there were a perfect political order, citizens would still need to judge its institutions and policies *as* perfect, and doing so would require they grasp an ideal transcending the order *against which* any order is tested.

This transcendent dimension of citizenship can generate an apparent paradox. The structure of the paradox is grasped by posing one foot each on two necessary conditions, where doing so produces a conjoined sufficient condition. A necessary condition of citizenship is that it take its bearings and grounds from what conforms to the ideal of justice.

⁽³²⁾ See Jeremy BENDIK-KEYMER, *The Ecological Life: Discovering Citizenship and a Sense of Humanity*, Rowman & Littlefield, Oxford, 2006, 224 p., lecture 7, “Maturity’s Idealism”.

⁽³³⁾ An assumption I take from RAWLS’s *A Theory of Justice*, 245f.

However, doing so is not sufficient for being a true citizen who engages in her polity's civic life. She must also take her bearings and grounds from whatever just processes apply in her specific political situation. Doing both of these things is sufficient for citizenship. In other words, true citizenship must pass both the test of ideal justice and the test of particular political membership in order for it to be what it is.

Reflecting on this articulation of citizenship produces an interesting implication. Since the ideal of justice is necessarily non-institutionalized (no given institution incarnates it perfectly ⁽³⁴⁾), and since citizenship must work within a given polity's practices in so far as they are conformable to justice, true citizens should see themselves as anchored in the *yet-to-be-articulated*, where what this means is that they should see themselves as grounded in an ideal order that produces a responsibility to *make sure* their specific polity is just. Justice is not perfect and finished, a final solution –even in the best of states. Because even the most just states have areas of improvement and challenges ahead in the flux of time, justice must be vigilantly checked against perfection (and the *understanding* of perfection must be checked against Perfection ⁽³⁵⁾). Thus making sure, however, should take the form of *working to ensure the articulation of justice* in their political institutions. To adopt an image, the roots of citizenship are in the dispersed potential of the sky, and the flourishing of citizenship is in the fruits of the earth that citizenship continually makes by making sure its city reflects the sky.

This, then, is what appears paradoxical about citizenship. In order to achieve true membership in a state's institutions, a citizen must be *grounded* in the non-institutionalized.

⁽³⁴⁾ Here, I follow RAWLS, *op. cit.*, who points out that a theory of justice works on the ideal, whereas any actual polity must be understood through real conditions, which bend the ideal in various imperfect or contingent (and so potentially obsolete) ways.

⁽³⁵⁾ And no human mind, after KANT, should reasonably take itself as able to intuit Perfection. How this point relates to the *generation* and *revision* of human rights exceeds this essay. See, however, Jeremy BENDIK-KEYMER, *Conscience and Humanity*, dissertation submitted to the University of Chicago Department of Philosophy, Chicago, 2002, 250 p. This dissertation is currently being revised for publication.

And, since a liberal state receives its legitimacy from its citizens and since its legitimacy also depends on its justice, the state's institutions appear to maintain legitimacy only because they are grounded in the non-institutionalized, *yet-to-be-articulated* ideal of justice. In other words, both citizen and state are legitimate in the here and now only because they are grounded in the transcendent ⁽³⁶⁾.

The corollary to citizenship's transcendental nature is citizenship's non-institutionalized grounding. The idea is not a new one ⁽³⁷⁾, and yet what is fascinating about the constitution of modern liberal states is that they *constitutionalize* the idea through their *de jure* support for human rights. That is, the human rights tradition in its relation to liberal states makes the non-institutionalization of citizenship's ground a part of the constitution of liberal states, at least in principle. Human rights are a higher authority than that of the state, since they legitimate the state as a necessary condition on it. Thus human rights are transcendent. They provide citizens with the *yet-to-be-articulated*. These rights, at least in the form of early modern natural rights, are incorporated in the constitution of liberal states. Thus, the constitution of liberal states involves a commitment on behalf of the state to uphold the *yet-to-be-articulated* ideal order of justice in the form of human rights. The ideal and the future are therefore written into the base of liberal states and of liberal citizenship as their grounding. Liberal states and liberal citizens are *to-come*. They are true only in so far as they are *working to ensure the articulation of justice* or are not impeding that task. Becoming is a constitutive principle of liberal citizenship, because it is a constitutive principle of liberal

⁽³⁶⁾ Notice we are working on a necessary condition here. There are of course many non-transcendent conditions that must be met for a state and its citizens to be legitimate –for instance, the state should be holding elections, and citizens should be obeying any law that is just.

Also, we must remember that the transcendent, for a liberal state, is not religious, but secular and pluralistic. ⁽³⁷⁾ One may find it in PLATO's *Republic* and in AUGUSTINE's *City of God*. Certainly, the Stoics –direct precursors of the universalist tradition of human rights- had such a vision of citizenship, too. See Martha NUSSBAUM, *The Cosmopolitan Tradition*, Yale University Press, New Haven, 2007, forthcoming.

constitutions. Thus, there is an open space at the heart of liberal constitutions ⁽³⁸⁾ –both of the state and of the citizen. It is held open by human rights, and through it the future of the state should be formed. That is the way in which liberal citizens, and their states, are grounded in the non-institutionalized.

True liberal citizenship also has a cosmopolitan grounding.

We can now see why apathy is infantile. The apathetic citizen has not appreciated her non-institutionalized and transcendent grounding, the way her very being-in-the-world should be shaped, *qua* true citizen, by the *yet-to-be-articulated* order of justice: the very institutionalization she makes and ensures is just in the structure of her state. To return to our earlier phenomenological description concerning matters of common humanity, not only does the true liberal citizen’s being-in-the-world clear around matters of common humanity as around points of light, but these matters radiate like alleys of light and disappearance stretching far from a city square away into the horizon ⁽³⁹⁾. These alleys of light and disappearance are the demands of common humanity that stretch into institutional structure, testing the structure’s justice. Her being-in-the-world, accordingly, is not just to be with common humanity, but to *travel* in light of the demands of common humanity, even if doing so requires she remake the state to fit our (common humanity’s) promenade. In other words, the true citizen not only sees common humanity but sees ways in which her present state

⁽³⁸⁾ I am playing off the philosophical sense of “constitution” again.

⁽³⁹⁾ As one sees often when being a *flâneur* in Paris. See Walter BENJAMIN, *The Arcades Project*, Harvard University Press, Cambridge, MA, 2002, “The Flâneur”, 416-455. Benjamin is, of course, commenting on the type BAUDELAIRE made famous. But Benjamin transposes Baudelaire’s elitist form into a general attitude of alienated, *yet-to-be-articulated* citizens in capitalist modernity.

should be reformed to *make way* for common humanity. This activist dimension to her sight signals she is mature as a citizen.

We might then describe the mature citizen's mode of being in terms of its form and content. The *content* of the true liberal citizen's mode of being is a *cosmopolitan grounding* ⁽⁴⁰⁾. Modern liberal states interpret the ideal order of justice in a surprising, cosmopolitan way. They tell their citizens at once that (a) you are a citizen of this nation and (b) your being a citizen is grounded by rights respecting the humanity of all persons. In other words, while you are a citizen of this nation, you are so only because the moral order of humanity is respected. Belonging to humanity is more important than belonging to the state, and yet believing this *is* belonging to the state. Only because you are a citizen of the world, you are a citizen of this state ⁽⁴¹⁾. This is a cosmopolitan grounding to citizenship, and it shapes the content of true liberal citizens.

Imagine, then, that you are a true liberal citizen who orients her life by common humanity *and* by participation in the civic life and institutional processes of her state. Because you have a cosmopolitan grounding, you look out for matters of common humanity and never less than when your state concerns them. So you see, for instance, that your state has many *immigrants*. These fellow humans are not given *effective* rights, if they are given rights at all. As a result, you interpret, correctly, that the scope of your state's institutions is not properly just. The domain of human rights is the human, and the scope of the human extends to all humans. Here are humans –but your state does not ensure them effective human rights, most notably, a life with dignity.

⁽⁴⁰⁾ The form of the mode of being will be discussed in the next section.

⁽⁴¹⁾ You may not *take* yourself to be a citizen of the world, but liberal states *interpret* you as such: as one human with dignity among all humans with dignity.

But that is not all. You see how your state treats humans abroad. It acts with a double standard. Toward its own –e.g., Americans- the state demands human rights protection. But towards others –e.g, Afghanis- it readily undermines or ignores the most basic human rights, e.g., the right not to be tortured. The domain of human rights is the human, and the scope extends to all human beings. Here are human beings –but your state does not ensure them their rights, most notably, a life free of torture and arbitrary coercion, a life as a legal subject with rights to due process.

The cosmopolitan grounding to liberal citizenship accordingly sees many aspects of the state’s life in terms of the universal order of common humanity. When the state violates or neglects that order, a true citizen balks. The constitutional structure of liberal states generates an obligation on behalf of citizens to ensure the state is properly cosmopolitan.

True liberal citizens build cosmopolitan institutions.

A cosmopolitan grounding explains the content of liberal citizenship a great deal. The *form* of a true citizen’s being-in-the-world comes from the transcendent, non-institutional ground of citizenship we discussed previously. When joined with the cosmopolitan content of liberal citizenship, the form of the true liberal citizen’s being-in-the-world, then, is to *construct* cosmopolitan institutions, in accord with the universal scope of human rights and their generically human domain.

Here is where we find perhaps the most important duty of citizenship, faced with the problem of apathy outlined in part I. If you remember, apathy depended on the state’s processes not having institutionalized the authority of human rights. What the form of true citizenship now makes clear to us is that a liberal citizen has a duty to institutionalize justice

for the sake of upholding the ideal. What should such institutionalization be? In a state where human rights have already a place in the process of legal appeal –as they do for European Union states, given the governmental structure of the European Union’s High Court of Human Rights- citizens should *refine* and *be vigilant over* the institutional process of this open space in the state for the testing of the ideal order of justice over nations. But in a state where human rights have no ultimate court of appeal –as in the United States currently, especially as concerns the US’s international comportment ⁽⁴²⁾- citizens should *make* and *legislate* an institutional process that allows citizens and non-citizens to hold their state to the state-transcendent authority of human rights. We US citizens need a High Court of Human Rights and to make our government sign onto the International Criminal Court.

Thus apathy is an incomplete and mistaken response to the non-institutionalization of human rights. A duty of liberal citizens is to institutionalize the non-institutionalized, and precisely when a state has not institutionalized human rights should a citizen *see her essential task most clearly*. Thus far from being a reasonable response to governmental blockage of the point of citizenship, apathy is the *most irrational* response, once we see clearly the essence of liberal citizenship. For, once again, the essence of liberal citizenship has the form of making the state conform to the cosmopolitan grounding of the state, and this form is conceived properly as a task to institutionalize the non-institutionalized. Thus when human rights are not properly a part of governmental processes, *exactly in that situation* does a liberal citizen become what she authentically is: a co-constructor of cosmopolitan institutions when these institutions are yet-to-be-articulated. Giving up makes no sense for a true citizen. True liberal

⁽⁴²⁾ We are well too aware the US has not accepted the jurisdiction of the International Criminal Court, for example.

citizens are cosmopolitan institution builders. Their being-in-the-world clears around this activist and creative task as if finally presented with an alley of light and disappearance.

Educating citizens to be engaged in a conflicted, pre-cosmopolitan epoch

If apathy is infantile, it nonetheless is understandable. We need a special sort of training to both be citizens of our state and be citizens of the world grounded in a deinstitutionalized ideal order of justice. Although we exist in an age where, largely due to economic forces, the Westphalian order is being eroded, still, at the level of the normative form of citizenship, citizens are not yet properly post-Westphalian. The nation state is not sovereign when one looks at its legitimacy from the standpoint of human rights. Justice is part of sovereignty, and justice is cosmopolitan. Citizens raised in the age of human rights know this inchoately, or should, yet teaching citizens how to live with this fact has hardly been a major goal of state institutions, not least the public educational system of the United States. Apathy is understandable, given this educational lacuna.

That being so, a major task of educators in liberal states should be to educate citizens about their essence *as* citizens. <<How are you, future adult citizens, to make your way in this conflicted, still pre-cosmopolitan epoch of liberal states that flaunt their illegitimate authority by refusing to consistently reflect human rights? Do you burn cars? Do you go into the wilderness and refuse to take part in politics? Do you listen to thinkers who reject all of the contemporary economic order and advocate a return to pre-industrial times? Do you cultivate your own garden? Do you play the game of the state and turn a blind eye to human rights violated abroad and neglected within your own country? Do you walk aimlessly

through the streets of Paris and light up a good houka to feel, for a while, the non-institutional transcendent?>>

Educating citizens to be engaged in a conflicted, pre-cosmopolitan epoch is not an easy task. We have to educate ourselves to find our reason and ground in something invisible: the ideal order of justice, a higher court. This may seem paradoxical to some. It may seem almost as Al Ghazali wrote that, <<[t]he visible world is a trace of the invisible one, and the former follows the latter like a shadow>> ⁽⁴³⁾. Yet, as we saw, a *second* necessary condition of citizenship is that the <<visible world>> of one's state be the place in which one's being-in-the-world clears, even if only through activist co-construction of the state's institutions. Thus we have to educate ourselves to think that the visible world of our political order and its governance ought to be the fruition, not shadow, of the invisible world of justice, which our world follows as a tree bends toward the light. The growth of that visible world comes only through our activism as we institutionalize justice.

Institutionalizing justice, moreover, requires a special sensitivity to the human. The invisible order's substance is cosmopolitan. It is like the Kingdom of Ends, that Kant made a regulative ideal of practical reason ⁽⁴⁴⁾. We likewise have to educate ourselves to think in this cosmopolitan way: searching both *intensively* into our own states and seeing the people who are effectively rightless and *extensively* throughout the world and seeing the people whose rights are violated, especially by our state or without opposition from our state. Whole curricula are required that sensitize us to the human, even when our state would, illegitimately and inconsistently, want us to avoid some humans.

⁽⁴³⁾ AL-GHAZALI, *The Niche of Lights*, quoted in Maria GOLIA, *Cairo: City of Sand*, American University of Cairo Press, Cairo, 2004, 11.

⁽⁴⁴⁾ Immanuel KANT, *Groundwork of the Metaphysics of Morals*, Cambridge University Press, Cambridge, 1998, 120 p.

The educational task this study generates is to teach students and citizens to be engaged in institutionalizing an ideal, cosmopolitan order of justice, especially when the state has omitted or blocked such institutionalization ⁽⁴⁵⁾. To repeat: *a liberal citizen becomes authentic precisely in the moment of building cosmopolitan institutions*. That means we should learn that our test as citizens comes precisely when our political order's governance has blocked the institutionalization of human rights. Teaching students and ourselves to stand such a test is no easy matter, for it requires teaching students that they become true citizens precisely when their state may object to their demands, perhaps even with force.

What kind of history books should be written for this task? What kind of exercises should students practice ⁽⁴⁶⁾? What national holidays and organized celebrations should be fostered? Who should be the heroines and heroes we teach ⁽⁴⁷⁾? Apathy is understandable so long as national cultures and educational systems have not absorbed and answered these questions in light of justice.

⁽⁴⁵⁾ See NUSSBAUM, *For Love of Country*, *op. cit.* Nussbaum advocates cosmopolitan curricula. I add to her thesis by advocating teaching students that their essence arises precisely in the activist, co-constructive moment. In other words, she has argued for the content of liberal education being cosmopolitan, and I have just argued for the form of that education being activist: training in the *yet-to-be-articulated* as the focus of true citizenship and the moment of a citizen's authenticity.

⁽⁴⁶⁾ E.g. Martin Luther KING, JR., *A Testament of Hope: the Essential Writings and Speeches of Martin Luther King, Jr.*, Harper, San Francisco, 1990, 736 p.; or Mahatma GANDHI, *Selected Political Writings*, Hackett Publishing, Indianapolis, 1996, 169 p.

⁽⁴⁷⁾ See Susan NEIMAN, *Moral Clarity: A Guide for Grown-up Idealists*, forthcoming, 2007.