



The Principle of Fairness and Political Obligation.

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ciations as another well worn phrase, *postmodernism*. How one defines and extends notions of a postliberal democracy during an era in which the very tenets of liberalism are under siege in both eastern and western Europe is as much an issue of "common sense"—the politics of the everyday—as it is of philosophy, which Gramsci referred to as "good sense." Just as Gramsci attempted to reinvigorate Marxist thought in response to fascism's rise, so must postliberal democratic theory confront the crisis of liberalism and the rise of intolerance and particularist forms of inequality in the 1990s. This is not a task of Golding's alone, however, but of theorists and political actors more generally. Sue Golding has made a useful, thoughtful contribution toward this end.

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Privacy, Intimacy, and Isolation. By Julie C. Inness. New York: Oxford University Press, 1992. 157p. \$24.95.

Before the arrival of Inness's attempt to reconceptualize the "chaotic world of privacy," scholars of a similar commitment had pretty much focused on *action* they deemed invasive. Now, with Inness's entry in the growing bibliography on privacy, *autonomy* becomes as important as simple, intrusive actions against the individual. Early on, Inness notes correctly that privacy law and those who write about it have failed to produce a unified account (much less a unified theory) of privacy. Law, she concludes, is not the route to resolving privacy's chaotic state. But philosophers are in no better agreement about the conceptual distinctness of privacy than are the juridical folks. One group of philosophers places the regulation of information at the heart of its definitions of privacy. Another group opts, instead, for definitions based on noninformation: seclusion, solitude, anonymity. The task Inness sets for herself is to disentangle, if not sometimes denude, the concepts and notions of other philosophers, then develop a theory of privacy that is grounded in intimacy: "We value being respected as autonomous emotional agents who can form their own life plans with respect to intimacy. Hence, privacy protects us from both manipulative and paternalistic intervention into our zone of autonomy with respect to intimacy."

Privacy claims that rely nearly solely on property rights are especially troublesome, for justified property claims may not always entail justified privacy claims. The fact that nonintimate possessions are deemed private property, Inness argues, does not suggest that privacy claims regarding those possessions are necessarily justified: "If a friend examines my pen sitting on my desk, she usually does not violate my privacy despite the fact that it is *my* pen, but if she examines my open diary on the desk, a privacy violation occurs." Thus, in Inness's scheme, privacy claims are not indiscriminately attached to the simple fact of ownership, whether of property per se or of information about oneself. In any case, the determining factor is "intimate aspects of the person," according to Inness.

Inness analyzes the rift between separation-based and control-based definitions of privacy, the former deforming, and the latter capturing, the nature and value of

privacy. A separation-based view says that privacy is the state of not being looked at or listened to, suggesting that "shared privacy" is impossible. Inness, the syllogist, writes "Assuming that lost privacy is inherently undesirable, and that lessening our separation from others is not necessarily undesirable, it follows that lessening our separation from others is not always a loss of privacy." In other words, publicity is not necessarily opposed to privacy.

Control-based accounts of privacy, on the other hand, give the *individual* control over a certain intimate area of *personal* life and secure, in the process, a specified realm of autonomy: "Given the modern liberal assumption that autonomy is a positively valued condition, control-based definitions . . . incorporate an underlying assumption that privacy is positively valued." Any curtailment of the individual's control over the private domain must be justified. The justification must be strong enough to overcome the positive value liberalism places on autonomy.

As for the content of privacy, that is, the information about, access to, or intimate decisions about our actions, Inness defines privacy as "the state of the agent having control over a realm of intimacy, which contains her decisions about intimate access to herself (including intimate information access) and her decisions about her own intimate actions." This follows Alan Westin's popular explanation that privacy is "the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others." Yet here, too, Inness allows that intimacy, not information, is the defining term—that some, but not all, information must be protected by privacy. "We must look at the *type* of information disseminated; it is the *intimacy* of this information that identifies a loss of privacy."

The content of privacy includes our decisions about intimate informational access, intimate access, intimate actions, and (most important) intimate decisions—which involve, in Inness's model, "a choice on the agent's part about how to (or not to) embody her love, liking, or care." Inness assumes that since society values respecting agents as "persons with the capacity to love, care, and like," it must therefore value protecting the autonomy of these agents with respect to these emotions. Behavior alone, however, does not constitute the source of intimacy, which stems from something prior to behavior.

Readers who have not spent equivalent time with the same legal and philosophical concerns will find Inness's treatise interesting and challenging. Others not so patient may find the work unnecessarily tedious—much of it reads like unedited lectures. Either way, the work must be taken seriously by scholars and policymakers alike.

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The Principle of Fairness and Political Obligation. By George Klosko. Savage, MD: Rowman & Littlefield, 1992. 204p. \$52.50 cloth, \$19.95 paper.

Klosko makes a valuable and thought-provoking contribution to liberal theory by providing detailed liberal argument for political obligation that is based on the principle of fairness (or fair play) introduced in Hart's

(1955) "Are There Any Natural Rights?" Klosko notes that "it is now widely doubted that a defensible account of political obligation can be constructed on liberal premises" (p. 21) and attempts to belie this view. In doing so, he makes very good use of both historical and contemporary texts, paying particular attention to two works skeptical of the possibility of a liberal account of political obligation, namely, Carole Pateman's *Problem of Political Obligation* (1979) and A. John Simmons's *Moral Principles and Political Obligations* (1979).

Klosko delineates five major requirements of any acceptable theory of political obligation. The theory must (1) be suitably "general," establishing the obligation of "all or most members of society"; (2) ground obligations that are "limited," thereby avoiding illiberal absolute governments; (3) explain people's obligation to support a suitably wide "range" of governmental activities; (4) account for the "particularity" of political obligations, that is, the fact that people consider themselves to be obligated to just that particular state with which they have a special relationship; and (5) "explain the obligations that people have to existing governments" (pp. 3-5).

In arguing that the principle of fairness can justify political obligations, Klosko employs a number of liberal assumptions, one of the most important of which is entailed in requirement 5, namely, that there are currently many people subject to legitimate political obligations. This is consistent with his adoption of the "coherence method" (Brandt's "standard method" or Rawls's "reflective equilibrium") according to which he can comfortably rely on the five requirements cited because they "express some of our deepest intuitions about political matters" (p. 22). Thus, Klosko counters Simmons' argument for philosophical anarchism by rejecting the appeal to false consciousness with respect to existing political obligations upon which Simmons must rely. Klosko may be too quick, however, to reject the combining of the coherence method with claims about false consciousness, since, as he notes, this move is justified if one "can clearly distinguish between our convictions in general and some class of them that are suspect" (p. 25). A supporter of Simmons could make just such a distinction, arguing that the belief in existing political obligations cannot function as just one more independent axiom of our political argument, because when this axiom is taken together with our other commitments, a contradiction arises; and this is the only single axiom whose removal eliminates the contradiction.

After establishing his approach in the first chapter, Klosko dedicates the central four chapters to a strong presentation of the ability of the principle of fairness to ground a theory of political obligations that meets the five cited requirements. Klosko's central claim is that people have an obligation grounded in the principle of fairness to contribute to a nonexcludable scheme, that is, a scheme for which nonparticipants cannot be excluded from the benefits if it provides them with "presumptively beneficial goods," that is, goods that are "indispensable to acceptable lives" (p. 40). It is clear how this claim addresses the five requirements, with the exception of requirement 3, namely, that people have an obligation to support a wide range of governmental activities. Klosko suggests both that many discretionary public goods are actually indirectly necessary for the provision of pre-

sumptive public goods and that one ought to accept a wide range of governmental impositions so as not to undermine the effectiveness of the institution that provides presumptive public goods.

Clearly, any theory of political obligation must meet Klosko's first requirement; it must apply to "all or most members of society." Klosko suggests that the principle of fairness generates political obligations in a manner that avoids the free-rider problem because it would be unfair for anyone not to contribute to a system that provides something indispensable. Exactly how the provision of something indispensable generates an obligation, however, is a crucial issue. Klosko claims that an individual's obligation "does not stem from hypothetical consent, but from the fact that he receives the benefits" (p. 42). Unfortunately, Klosko does not directly support his admittedly plausible theory in contrast to the theory of hypothetical consent. Furthermore, he employs arguments that read very much like hypothetical consent theory:

Because the benefits of national defense are presumptively beneficial, we can assume that Pickerel *would* pursue them (and bear the associated costs) if this were necessary for their receipt. If we imagine an artificial choice situation analogous to a state of nature, it seems clear that under almost all circumstances Pickerel would choose to receive the prescribed benefits at the prescribed cost, if he had the choice. Because of the indispensability of national defense, it would not be rational for him to choose otherwise (pp. 41-42).

Shortly after, he claims that "because the benefits are indispensable, he could not say that he does not want them" (p. 42).

After completing his discussion of how the principle of fairness generates political obligations that meet the five requirements, Klosko provides a concluding chapter in which he explicitly addresses the shortcomings of the principle alternative approaches to justifying political obligations: utilitarianism and consent theory. Since hypothetical consent theory is not subject to his general criticism of consent theory, which focuses on the fact that actual consent (either express or tacit) is rarely given, he addresses it in a note. He claims that "it is not clear how the fact that A would consent to government X under various circumstances that do not obtain gives rise to an obligation to X *that is based on consent* under existing circumstances" (p. 144, n. 39). It is not obvious, however, that hypothetical consent theory entails fundamentally different reasoning from Klosko's employment of counterfactuals in arguing that the benefits provided by presumptive public goods are of the sort that generate obligations of fairness. Klosko not only employs counterfactual reasoning to suggest that the recipient considers the benefits suitably indispensable and thus worth a fair contribution but also, like a hypothetical consent theorist, he claims that one who thought otherwise "would not be rational."

Anyone interested in the problem of political obligation will be stimulated by this book, which provides a good sustained argument for a plausible account of political obligation that is worthy of careful consideration.

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