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Should Groups Matter?
Religion, Freedom, and Contemporary Civil Society

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Should Groups Matter?
A PRRUCS Issue on Religion, Freedom, and Civil Society

Daniel J. M. Cheely and Luke C. Sheahan

Between the individual and the state, are certain social groupings necessary for democracy to flourish? Or are they all arbitrary, historically-contingent, and as likely to harm as to help? What rights of autonomy does the state owe, if any, to groups, and which ones, if any, may it prioritize? What do these groups, in turn, owe to the political community? Or to each other? And moving beyond a strict framework of legal obligation, are the sorts of virtues that make a good group member the same as those that make a citizen good? These lines of inquiry have concerned political theorists and social commentators for millennia, and the answers have inspired activists and social movements. Some legitimate realm of autonomy accorded to religious and kinship groups has been almost taken for granted in America, but has been more closely scrutinized of late. Even more vexed is the question of which protections and privileges are owed to non-filial, non-religious social entities, such as non-profits, community or ethnic groups, identity-based associations, and the like. While it might have been tempting to dismiss further talk about group rights with abstract declarations of common dignity that we believed were already universally accepted, the horrific events of racial injustice this spring have demonstrated only too painfully the distance that we and our shared institutions still must learn to travel. On the other hand, the pathways to addressing these questions at other times can appear to lead down ever narrower trails navigable only by those with technical expertise. Yet the solutions inevitably shape the wider moral horizons of the whole community. That is why this volume, and this PRRUCS Series as a whole, invites leading scholars of diverse outlook to write about salient issues of contemporary civil society in a manner that is broadly accessible. It thereby also invites a specialist and non-specialist readership to think with us about the shape of the polity that we cannot but shape together.

Our current situation of lockdowns and quarantine offers a unique twist on social and political responsibility. Pandemics are not rare in human history. Times of trouble are even more common. The duties of citizens always come to the fore during these times, as do reflections upon these duties. But a health crisis of this magnitude in modern times is not common. What makes it even more strange is that one of the best ways to help others is to leave them alone. So—what are the responsibilities of citizenship in times like these? As Catherine E. Wilson (Villanova University) reflects, we must discern how citizens can cultivate virtue in both normal and abnormal circumstances. We may discover that the virtue of solitude, demanded in our current moment, may have significant political—and personal—ramifications once we emerge from it. For most agree that our political atmosphere is at least as toxic as our natural environment. Lia C. Howard (University of Pennsylvania) explores the question of how to aerate our political culture. The answer is found, as it often is, in concrete, local, and associational action, and not just in the episodic activity of the voting booth.

The more general question of citizenship and autonomy is especially relevant to the kinship group, the state’s oldest rival in human history. Who owns children? Are children citizens first of the state, or of the family into which they are born? Melissa Moschella (Catholic
University of America) explores the philosophical foundations of this question and its implications for public policy and civil education. Rogers Smith (University of Pennsylvania) offers a historical survey of how religious groups from three monotheistic traditions confronted accusations of “dual allegiances” in America and how suspicions of political disloyalty are resurfacing along those lines today. Michael D. Breidenbach (Ava Maria University) follows Smith’s analysis with a case study, exploring how Catholics in early America concocted different strategies to demonstrate their contested loyalty, and how those different strategies in turn shaped their political futures. Luke C. Sheahan (Duquesne University) concludes this volume with two essays that cast new light on the global future of democracy and ordered liberty. The first essay discusses a conceptual framework that helps to make sense of the contours of our constitutional community today, investigating at the same time whether certain well-accepted protective mechanisms, such as the First Amendment, facilitate the autonomy of social groups or undermine them. The second essay examines how the Chinese political community has treated non-profits and how an overlooked but seminal social theorist might offer a path forward.

A time to restitch the social fabric of our community will follow our spring lockdown. If we hope to promote a healthy polity as we resume activity amidst the lingering threat of pandemic, we must think critically and constructively about how social and physical well-being will continue to be related. We hope that this collection of essays, reflecting on both our foundations and our futures, might help us advance in our ongoing quest for the common good.
Reflections on Citizenship while Staying at Home

Catherine E. Wilson

If social distancing is unnatural, can it still help us become better citizens and more fully human? Yes, indeed, if citizenship demands solitude and the observance of law, as much as it might involve individual initiative and coordinated social action. Catherine E. Wilson, Ph.D, is an Associate Professor and Chair of the Department of Public Administration at Villanova University.

Social distancing is not a natural human state. Great comfort is not typically found in exclusion and isolation from others, especially when it is practiced on a global scale. However, this time away from concerts, sports, and social gatherings has provided us with deeper insight into the meaning and purpose of citizenship. This may sound counterintuitive. How can we deepen our appreciation of citizenship while we sit by idly at home? How can sitting on the sidelines cause us to better appreciate those on the frontlines? We must admit that we are not simply sitting on the sidelines. Even though work and schools may have temporarily closed, many of us are working from home – but not everyone. We must not forget essential workers who have remained at their posts. And we must not overlook those workers who have lost their jobs during the pandemic.

Regardless of our employment situations, one thing we have in common is that all of us are responsible for the health and wellbeing of others, whether family, friends, coworkers, students, customers, clients, and patients. Also, we must realize just how much more vigilant we should be for those who are among the most vulnerable – the elderly and others with underlying health conditions.

We need a general definition of citizenship. James Wilson, Founding Father and Pennsylvania delegate to the Constitutional Convention, wrote in his 1791 essay, “Of Citizens and Aliens,” that a citizen plays a role both in ruling and being ruled.¹ Wilson emphasizes that the primary duty of citizenship is “obedience to the laws and to the administration of the laws” (p. 1039). And for Wilson this obedience ultimately enhances rather than diminishes the safety, freedom, dignity, and self-government of citizens (p. 1041).

It is now Day 64 of my confinement to home. March 23. I was exposed from afar at a large family function to someone who tested positive, and I had to begin self-quarantine on March 13. As someone who once found solitude as a voluntary and welcome escape, I must admit that staying at home has caused me to be somewhat restless. It’s curious how the human mind works – when we are required to refrain from doing something (even for a brief period of time), we end up desiring to do that very thing.

I often find myself wanting to join those on the frontlines. I have been inspired by those dedicating themselves to keeping the American people safe and healthy during this unprecedented time. I am proud to say that some of these individuals are students, alumni, staff, administrators, and fellow faculty members. Ironically, sitting tight is precisely where some of us have needed to be. For it is in this solitude that we can deepen our understanding about the practice of American citizenship.

Throughout our history, citizenship has been characterized both by individual rights and responsibilities. It is true, however, that in recent years we have tended to emphasize the former at the expense of the latter. Responsibilities (and the individual sacrifices required by these responsibilities) typically involve action, whether in response to wartime, natural disasters, election calendars, and even jury duty, rather than solitude.

The demonstration of individual responsibility can also be a very local phenomenon. We have witnessed this in abundance as adult children sacrifice for their elderly parents and parents sacrifice for their children to protect them from the coronavirus. And let’s not forget to mention the extraordinary efforts of so many dedicated health care workers, township managers, state National Guards, nonprofit leaders, and corporate response teams throughout the country.

While responsibility (especially at the local level) is an undervalued characteristic of American citizenship, so too is the importance of solitude. But solitude is making something of a comeback with the

rapid spread of meditation and mindfulness practices in workplaces. Even though many of us are becoming more understanding of the need for these practices, we continue to dislike when we are required to enter into solitude. Instead, we believe that solitude should be an individual choice – a respite from a hectic week of work or long day with the family.

Perhaps this is because solitude – and the reflective time that is associated with it – is an elusive thing. William Penn, the founder of the colony of Pennsylvania and a Quaker, was well-acquainted with solitude after being imprisoned multiple times for religious dissent in England, including eight months in the Tower of London. He wrote in his late 17th century work, *Some Fruits of Solitude* “there is nothing of which we are apt to be so lavish as of time, and about which we ought to be more solicitous; since without it we can do nothing in this world. Time is what we want most, but what, alas! we use worst.”

But what if solitude is also a responsibility and key ingredient of citizenship? In *Lead Yourself First* (2017), Raymond Kethledge and Michael Erwin contend that “personal leadership – leading oneself – is the foundation of leading others. And personal leadership comes through solitude.” (p. xiii). The authors underline that solitude demands awareness, discipline, and moral courage (p. xxi). Kethledge and Erwin note that “leadership solitude” is “productive solitude.” In other words, they argue that solitude is not a passive but an active process as it allows for time for insight and synthesis which can result in conviction (p. xix).

During this pandemic, leaders and citizens from across the world have learned that solitude is not simply a right, but more importantly, a responsibility. This experience has demonstrated that solitude is our civic duty as we strive to protect the safety and wellbeing of others.

As the country and a large part of the world is advised to continue social distancing protocols, let us take this view of productive solitude to heart. Let us allow this time of solitude to strengthen us to practice citizenship with all its rights and its responsibilities. While definitely not anticipated or pleasantly welcomed, this global time-out may afford us the opportunity to appreciate more fully the duty of citizenship as we witness the range of lifesaving efforts taking place every day.

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Can We Save Our Toxic Political Atmosphere?

Lia C. Howard

The toxins in our atmosphere this spring make even more palpable what we already have been experiencing in our political culture, and make even more urgent our communal responsibility to address them as we approach the election season of fall 2020. Lia C. Howard, Ph.D., is a political scientist and the Student Advising and Wellness Director of the Stavros Niarchos Foundation Paideia Program at the University of Pennsylvania. This essay is adapted from her opening lecture to her Introduction to American Politics course as well as a public lecture delivered in September 2019.

Rachel Carson, in her 1962 book *Silent Spring* pointed out what the pesticide DDT was doing to the natural environment and helped turn the tide towards eliminating its widespread use. Carson highlighted the interconnectedness of the natural environment, explaining how human interference in one area badly altered other parts of the wider ecosystem. Her work led to the creation of the Environmental Protection Agency. Likewise, in 2016 after a ten-year lawsuit, the lawyer Rob Bilott was able to classify the toxin PFOA and make sure it was no longer dumped by DuPont into Parkersburg, West Virginian waterways. Being translucent in water, it had not yet been identified by the EPA though its effects were evident: cows were dying, cancer levels escalated among the citizens of Parkersburg, and two out of seven births experienced birth defects. Once PFOA was identified, however, DuPont could be held accountable for dumping it and the town could work towards restoration and health.

Like Carson and Bilott, most Americans bear witness to the effects of political toxins in our atmosphere, mainly in the measurable increase in anger and anxiety. In April of 2019, Gallup released their Global Emotions poll showing that Americans have hit record levels of stress and anger. U.S. citizens are 20% higher in our stress reporting and 6% higher in our worry reporting than the world averages. Folks under 30 are reporting the highest levels of anger. Pew Research Center's March 2019 report has 8 in 10 Americans “worried about the way the government in Washington DC works” with 65% of Americans thinking that we will grow in our divisiveness over the next 30 years. Along with anger and stress, nearly three quarters of those under 30 no longer trust other people or key institutions especially when compared to older generations according to a Pew Research Center August 2019 report.

It is clear that there are toxic elements in our political air and water. Identifying the causes behind why this moment feels so incredibly fraught is critical as it may have concrete consequences. Some might be led by their feelings to disengage from all of the heightened energy directed towards the election of 2020 especially if it continues to be framed in toxic and divisive ways. Some already have. Feelings of anxiety and anger invoke the fight or flight response. What if we studied the atmospheric conditions affecting all of us, take a moment to reflect on where we are, and look for ways to take deep breaths of clean air?

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4 John Gramlich, “Young Americans are less trusting of other people – and key institutions – than their elders.” Pew Research Center, August 6, 2019: [https://www.pewresearch.org/fact-tank/2019/08/06/young-americans-are-less-trusting-of-other-people-and-key-institutions-than-their-elders/](https://www.pewresearch.org/fact-tank/2019/08/06/young-americans-are-less-trusting-of-other-people-and-key-institutions-than-their-elders/).
Six Toxins Corroding Common Ground in the Electorate

(1) Our information and social networks reinforce our own views and caricatures of opposing views mostly because we do not have electronic shared, common space.

Harvard Law Professor, Cass Sunstein’s book #Republic: Divided Democracy in the Age of Social Media, uses the term “homophily” or self-love to describe the product of the algorithms that keep our information feed and friends curated such that we do not encounter authentic difference in non-confrontational ways. Most poignantly, Sunstein quotes Jane Jacobs’ description of the purpose of sidewalks in cities—spaces of “serendipity” where we encounter and observe differences in nonthreatening, shared space without having to respond— to underscore that we do not have such space online. Though much of this is happening at a subconscious level, on a sidewalk we meet people face to face and we are aware of people’s humanity, which subtly reinforce certain norms and manners.

One dramatic result of this toxin is something that Ross Douthat in a recent article refers to as a scissor. A scissor “is a statement, an idea or a scenario that’s somehow perfectly calibrated to tear people apart—not just by generating disagreement, but by generating total incredulity that somebody could possibly disagree with your interpretation of the controversy followed by escalating fury and paranoia and polarization until the debate seems like a completely existential win or perish fight.” Several scenarios are listed, the NFL and the national anthem, the Kavanaugh Supreme Court hearing and the March for Life where the Covington High school student encountered a Native American activist. Scissors have many different elements of the culture wars often condensed into a single image. Because the image is designed to evoke high levels of passion, when you discover that someone has the opposing view of the scene, it can continue to calcify your perception of the other person as an irredeemable antagonist.

This is compounded by the fact that political information is disseminated and consumed differently by persons based on their political party affiliation. Though it seems commonplace knowledge at this point, five years ago Pew Research Center found that “consistent conservatives” tend to cluster around one source, (Fox News) while “consistent liberals” tend to gather media from multiple, different sources (New York Times, NPR, CNN, and MSNBC). It is important to note that since Pew’s study, other forms of conservative media have become more popular. Social media is likewise filled with fragmenting behaviors. “Consistent liberals” are more likely to unfriend someone on social media based on political opinions whereas “consistent conservatives” are more likely to hear opinions that mirror their own on social media sites. This means, people do not receive information from the same source—the frame is different, the content is often different and the ad hominem attacks are different.

Lacking both common spaces to encounter opposing views and even the same information can lead to “zero sum” narratives—the idea that for your policy idea to win, I have to lose. Since the way legislation is crafted in the U.S. is deeply dependent on compromise, the entire legislative process becomes stymied. This leads to the “might makes right” phenomenon where the only way to get something done is to grind the other party into submission with larger majorities in Congress and to make capture of the executive office an existential battle, instead of working with the other party towards acceptable compromise.

Moreover, it can feed fear and anger through “comparing our best against their worst” caricatures. It is reductive, often rife with logical fallacies, and because the other side is not portrayed fairly it becomes deeply emotive. This, when coupled with our next toxin, can become combustible.

Television media sources increasingly rely upon strategies that evoke high emotional responses among viewership—making it harder for viewers to

turn away, but leaving an association of anger and distaste towards political discourse.

University of Pennsylvania Political Scientist, Diana Mutz discusses the rise in emotional reactions that viewers experience as they are exposed to ever more uncivil media (close-ups of yelling pundits).\(^1\) Humans in general are averse to intense, in-your-face confrontations, so seeing these images at such high frequency influences the way Americans experience politics (net negative) as opposed to the information conveyed by, say, Walter Kronkite with a single, stationary camera. The visuals of angry pundits give flesh to the angry words read on media feeds.

Beyond sophistication of hightech videography, the market imperative of media has given license to selling ideas for maximum viewership as a higher prerogative than worrying about the consequences resulting from how ideas are sold. The sophistication of data allows marketers to micro-target their audience with such precision to know exactly which words, emotions and ideas will appeal to their very specific audience. They can frame information knowing with precision that their fuzziness around certain ideas will fit within the blanket world views of their audience. Information is not calibrated necessarily towards allowing their viewers to learn new things, instead it reinforces preexisting opinions.

For example, when I encounter some people who hear that I am a political scientist in a university, I frequently hear how there is no free speech any more in universities and they are appalled at how young people are not exposed to a variety of ideas. While it is true based on some data that education leads to growth in liberal ideas, it is largely a myth (one punctuated by a few high-profile exceptions to give it temporary validity) that universities block speakers. It gets traction on networks with viewers that have less daily contact with universities, their ideas are fuzzy about the place, so hearing caricatured information that young people are in trouble can be believed more easily.

(2) The rise of negative partisanship. The majority of the American electorate is voting to oppose the other party rather than to affirm their own beliefs. Emory University Political Scientist Alan Abramowitz’s study and recent book discuss the rise of “negative partisanship,” the idea that people are voting to oppose other party’s beliefs rather than to support a set of beliefs held by their own party.\(^9\) The elections of 2012 and 2016 marked the highest incidence of “party loyalty and straight ticket voting since the National Election Studies began tracking American voting patterns in 1952.” This is dangerous in a democracy on many levels.

If you are preoccupied by painting a negative portrait of the other, you will be less concerned with outlining what it is you actually (precisely) believe. Again, fuzzy concrete policy ideas do not matter if all political rhetoric is designed primarily to malign the other side. This particular strategy facilitates the proliferation of logical fallacies in political campaigning because it is more concerned with getting the electorate to feel disgust, anger and fear than it is to get them to think rationally. Our Founders, schooled in both the Enlightenment and in classical thought, categorized rhetoric that appealed chiefly to passions as the very lowest form of political discourse. An appeal to reason was most important in an argument; and then, if necessary, one might appeal to people’s interests. Only as a last resort should there be an appeal to emotions because such appeals are rife with logical problems and are the primary tool of demagogues.\(^10\) Passions work as a marketing imperative. They do not cultivate thoughtful, engaged citizens.

Another feature of negative partisanship is that it breeds both destructive thinking and self-righteousness, which erode the construction of a set of policies that represent a coherent political perspective. It is easy to be a wrecking ball but much harder to present an alternative vision. Further negative partisanship erodes trust from those who might not agree with your perspective but who want


\(^{9}\) Alan I. Abramowitz and Steven Webster, “The Only Thing We Have to Fear is the Other Party.” *Sabato’s Crystal Ball*, UVA Center for Politics, June 4, 2015: [http://centerforpolitics.org/crystalball/articles/the-only-thing-we-have-to-fear-is-the-other-party/](http://centerforpolitics.org/crystalball/articles/the-only-thing-we-have-to-fear-is-the-other-party/). Accessed May 15, 2020. See also Alan Abramowitz, *The Great Alignment: Race, Party Transformation, and the Rise of Donald Trump* (Yale University Press, 2018).

to nonetheless create public policies. This trust is critical to develop what Penn’s president Amy Gutmann and Harvard professor Dennis Thompson call the “spirit of compromise” as opposed to a spirit of campaigning.\textsuperscript{11} Negativity is highly contagious, deeply destructive and takes on a life of its own, one that can divorce itself from reason.

(3) The nuance of the local is becoming homogenized into two gigantic political parties. In his article “The Rise of McPolitics,” Harvard Political Scientist Yascha Mounk underscores the highly problematic substitution of big box store party politics for the idiosyncratic nuances of local party politics.\textsuperscript{12} Democrats in New Hampshire were qualitatively different from Democrats in Georgia but with the rise of the other toxins mentioned above as well as decisions made by the two dominant US political parties, we have the snuffing out of local, geographically based political nuance. This could well be connected to the loss of local newspapers (on which, see Harvard professor Jill Lepore’s work).\textsuperscript{13}

The problem here is people largely feel disconnected from concrete issues like those felt at the local level. This disconnect makes politics not about getting tangible things done, like fixing the bridge I can see from my house, but instead about more abstract issues that do not directly influence my commute to work or my day-to-day expenses. The abstraction works very well with culture war issues. It allows you to ignore all other important reasons to compromise, as you would in order to get that bridge fixed, to fight for something abstract. All energy is caught in zero-sum fights over single culture war issues with license to sacrifice all other day-to-day polices as long as we get our team in (even if “our team” is actually hurting our local area with their policies, be they environmental policies causing widespread flooding, tariffs hurting agriculture etc). As with the other toxins, this nationalization of politics erodes the search for common ground and solutions where both sides can have tangible wins (and the community can have one big win—the bridge). With abstract issues, it is hard to see what a “win” looks like besides getting the Supreme Court to bulldoze the opposition with yet another 5-4 decision. If a community gets to fight for a concrete win, in an area that citizens cannot do for themselves as individuals, like a building/fixing that bridge, the feeling of cooperative accomplishment and political efficacy is tangible and priceless.

(4) The influence of money on politics narrative that has held sway over the American psyche is this notion that we are all middle class. We have long ignored class distinctions and been appalled at the thought of a US aristocracy because we could always point our fingers towards Europe saying we do not have that here (however much we were trying hard to ignore our hypocrisy). In the 1960s, political scientist Louis Hartz looked with envy towards Europe saying we would never get socialism here because we never had the class consciousness that comes from having a feudal history. The narrative of all Americans being middle class was significantly threatened by the 2010 Supreme Court ruling \textit{Citizens United v the Federal Elections Commission}. The Court ruled that corporations are persons and as such are entitled to free speech under the First Amendment to the Constitution. They are thus allowed to spend what they like to support political candidates in elections. The 2012 election unleashed a spending frenzy by wealthy individuals on both sides of the aisle, even though Americans are largely united around reducing the influence of money in politics. Four in five Americans think there is too much money in politics, with 84 percent calling for a complete restructuring of campaign finance (from exit poll respondents in both parties).\textsuperscript{14}

Alongside the \textit{Citizens United} decision has been the very real economic realities of Americans. We are moving ever backwards toward the sharp

\begin{itemize}
\item \textsuperscript{11} Amy Gutmann and Dennis Thompson. \textit{The Spirit of Compromise: Why Governing Demands It and Campaigning Undermines It} (Princeton University Press, 2014).
\item \textsuperscript{13} Jill Lepore, “Does Journalism Have a Future?” \textit{The New Yorker}, January 21, 2019: https://www.newyorker.com/magazine/2019/01/28/does-journalism-have-a-future.
\end{itemize}
inequalities of the Gilded Age elite few and the poor majority. The documentary “Inequality for All” by Robert Reich compares inequality in America to a suspension bridge. The peaks in 1928 and 2007 were followed by sharp economic dips. Interestingly, political polarization in America mirrors the economic “suspension bridge” almost perfectly. In periods of high economic inequality, there is high political polarization. The inverse is also true. Economic equality breeds political compromise.

(5-6) Isolation and Workism

Another very real social phenomenon polluting all efforts towards building the commons is isolation among the American populace. Arthur Brooks at the American Enterprise institute has shown that loneliness makes people more apt to accept ideas on the ideological fringe, especially if they are angry. Spending more time alone and with screens has led to a dramatic loss in empathy among young people, according to MIT scholar, Sherry Turkle. Finally, there is rapid isolation between generations even as intergenerational cooperation, such as between retirees and college students, according to a recent Wall Street Journal article, could be deeply helpful to both.

Going hand in hand with isolation is the tendency of Americans to be engaged in what Derek Thompson of The Atlantic calls “workism.” Calling it a new religion (or one of the new atheisms) Thompson defines workism as “the belief that work is not only necessary to economic production, but also the centerpiece of one’s identity and life’s purpose; and the belief that any policy to promote human welfare must always encourage more work.” He goes on to give data showing that the richest men since 2005 have traded work for leisure and clock the longest work hours of any other group.

Isolation mixed with workism means a host of things. It means we are running on fumes when we turn to building civil society and our political life. It means that we can hide in our work and feel justified not contributing to the common good. Further, isolation and workism can reinforce each other. They and the other toxins mentioned above are making us more prone to believe things that are not rational but deeply emotive.

Concluding Thoughts

Reading through the toxins above, it is clear that regardless of the outcome of the 2016 election, all of the toxins would have been present in the atmosphere of the U.S. The striking thing about the election of our current president, however, is his tendency to exacerbate the pollution, rolling back not just the laws of the actual EPA, but actively promoting each of the toxins through behavior that leads to division. This administration has reminded us that the American presidency until now has followed unwritten norms of behavior initiated from the very start by George Washington. These norms are not written into the Second Article of the Constitution, they are simply a mantle that each president up to this point has taken on, silently following the words of Washington’s Farewell Address to unify the country lest our differences rip us apart. For temporary, personal gain, our current president has stoked divisiveness at every level, calling fellow Americans, even US Congresswomen, “other” and using careless and offensive speech to describe fellow citizens of the United States.

Without leadership coming from the top, it is ever more imperative for citizens to mount a grassroots clean-up of toxins. In the same way that people recover the ecology after a massive crude oil spill, I envision people cleaning up after the devastation that these toxins have ravaged on our shared political life.

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To that end, I offer three simple charges to my fellow citizens:

First, form associational attachments with a preference towards face to face encounters that emphasize concrete policy goals. Alexis de Tocqueville’s idea of American associations as an alternate source of moral authority has significant potential in this moment. Join book clubs and civic societies, clean up trash and feel the power of engagement.

Second, go local. Focus on ways to serve the public in your local community. Find out what is going on in your local community and engage your networks to find ways to be involved in doing concrete tasks that better life for all.

Finally, find ways to reconstruct the idea of “the commons” and look for leaders that consistently foster the common good and common ground as opposed to those who consciously build their messaging around division. We do not need to be ideological purists. These are complicated times that call for nuanced views. It is important to have concrete policy ideas, as opposed to those built on fuzzy ideological concepts that artificially connect people based on their fears or anger.

In 1968, Garrett Hardin wrote the “Tragedy of the Commons” in Science magazine regarding the effect that increased population was having on earth’s resources. Quoting a 19th century mathematician, Hardin said that “freedom in the commons brings ruin to all,” articulating the idea that rationally pursuing our own self-interest destroys the commons. Rejecting that idea, Hardin turned instead to Hegel to say, “freedom is the recognition of necessity.” While not making a statement about population, I agree with this idea. We desperately need to recognize the “necessity” of caring for our intellectual, dialogical, and political commons. We need to name the toxins, work for their removal, and build space for the common good to flourish again.
Ordering Parental Rights, Children’s Autonomy and Civic Education:  
A Philosophical Foundation for Public Policy

Melissa Moschella

Responding to some of the challenges to her recent book, To Whom Do Children Belong (2016), Dr. Moschella argues that affirming the primacy of the parents’ right to educate their children provides the best safeguard for children’s autonomy and cultivates the virtues required by citizenship in a pluralistic, democratic society. Melissa Moschella, Ph.D., is Assistant Professor of Philosophy at The Catholic University of America and McDonald Distinguished Fellow in the Center for the Study of Law and Religion at Emory University School of Law.

Who has primary educational authority over children: parents or the state? While most would agree that parents have some discretionary authority regarding the education and upbringing of their children, many liberal political theorists – such as Stephen Macedo, Amy Gutmann, Eamonn Callan, Ian MacMullen and others – argue that parental discretionary authority is significantly limited by the child’s right to autonomy and/or the state’s interest in preparing children for citizenship in a pluralistic democratic society. Especially when it comes to children’s formal schooling, such theorists believe that the state’s judgments about how children should be educated trump those of parents when the two conflict. They argue, for example, that all schools (including, at least in principle, private and religious schools) should be required to expose children to diverse values and ways of life distinct from those that they are learning at home, and that, at least in principle, parents do not have a right to opt their children out of aspects of the curriculum to which they have a moral or religious objection, or to homeschool their children.

Consider the case of Wisconsin v. Yoder (1972), in which the Supreme Court granted Amish parents an exemption from compulsory education laws in order to be able to educate their children at home in the Amish way of life after they had completed eighth grade. Many liberal theorists disagree with the decision in principle, arguing that it fails to respect the autonomy of Amish children and/or that it prevents the children from receiving the education necessary to be good citizens. For the same reasons, such theorists agree with the 6th Circuit Court’s decision in Mozert v. Hawkins (1987), denying the request of Christian parents in Tennessee to exempt their children from a diversity-oriented reading curriculum that they believed conflicted with the religious beliefs and values that they were trying to pass on to their children at home.

In contrast, my view takes as a matter of principle – the constitutional issue is separate – that Yoder was right and Mozert was wrong, ultimately because parents’ authority over their children is primary and original, grounded in the very nature of the parent-child relationship and not in any way derived from the state’s authority over children, which is subsidiary to that of parents. In what follows I will briefly defend this view, and then go on to explain why I believe that respecting the primacy of parental educational authority is not only compatible with, but also on balance helpful for the promotion of children’s autonomy and the achievement of civic educational goals.

Parents as Primary Educators

Why, then, are parents the ones with primary educational authority over their children? Understanding parental authority as pre-political requires understanding the moral relevance of the parent-child relationship, the central case of which is grounded on a biological tie. So one way of thinking about this issue is to ask the question: Why should I get to bring my own baby home from the hospital, rather than some other baby chosen at random from the nursery? Why are we horrified when we hear of cases in which babies were accidentally switched at birth, or, as has also occurred, when a mix-up at the in vitro fertilization clinic results in a woman becoming pregnant with another couple’s embryo rather than her own? I believe that the answer to these questions lies in recognizing that, because we are bodily beings whose personal identity has a biological foundation, the biological parent-child relationship is, in and of itself, a true personal relationship. Like other personal relationships, in which the parties are related to one another on the basis of unique personal characteristics, the biological parent-child relationship generates special obligations proportionate to the
closeness of the relationship and the needs of the individuals involved. Personal relationships also involve personal dependencies – that is, if Sam and Sally are in a personal relationship, Sally has needs that only Sam can meet. Thus personal relationships generate non-transferable obligations. Now, the biological parent-child relationship is unique in that it is a cause of the child’s very existence and identity. The relationship is permanent and, for the child, literally identity-defining. To have had different biological parents is simply to be someone else – i.e., not to exist at all. And of course the child brought into being by that relationship is extremely needy in every respect. Therefore, biological parents have weighty special obligations to their children.

Many of a child’s needs could be met by people other than her parents. But there is at least one need that the biological parents and only the biological parents can fill, and that is the need for their parental love. While of course a child can be well-loved by others, the love of others still does not replace the specific love of those who are the source of the child’s biological life and identity. Similarly, a widow may remarry, but the love of her new husband cannot replace the specific love of her deceased husband. As a result, biological parents have a weighty non-transferable obligation to love their children – that is, to have a high-priority commitment to the promotion of their children’s well-being – an obligation which can usually only be fulfilled by raising those children oneself. This is in part because knowledge of parents and relatives helps a child to develop a mature sense of personal identity. But more fundamentally, failing to raise one’s biological children oneself is not compatible with the high-priority love one owes them, unless there are serious child-centered reasons for not doing so, reasons of the sort that would enable the child later to understand that his parents’ decision not to raise him themselves was not the result of lack of love, but rather an expression of their love and their desire to enable him to have a better life than they could provide.

This account helps us to see why there is a good reason for people to want to bring their own baby home from the hospital, and why, except in cases of clear incompetence, parents have a right to raise their own children. Parents have this right because they are the ones with the strongest and most direct obligation to provide for their children’s needs, an obligation which is in some respects non-transferable. Since children cannot yet make decisions for themselves, the obligation to take care of children implies the authority to make decisions on their behalf. Thus, by virtue of their relationship to their children, parents are the ones with primary childrearing authority. Further, the fact that parents have serious, non-transferable obligations to their children means that respecting parental decision-making authority is also a matter of respecting parents’ conscience rights, and in many cases explicitly a matter of respecting their religious freedom, since many parents see their obligations to their children not only as natural obligations, but also as religious obligations.

Let me note here briefly that adoptive parents also have the same rights as biological parents, because in committing themselves to raise a child, they are taking on the same obligations that biological parents have by nature. Indeed, what distinguishes adoption from foster care is that the commitment of the adoptive parents to care for the child is permanent and unconditional, just as the commitment of biological parents to their children naturally ought to be. Adoptive parents also soon develop a deep personal relationship with their child that includes an expectation on the part of the child that this relationship will endure. The relationship that they form then makes their adopted son or daughter uniquely dependent on them to meet his or her developmental needs.

Where does the state fit in here? The state does have an obligation to promote children’s well-being, but this obligation is indirect and subsidiary to that of parents, which means that the state should generally fulfill this obligation by assisting parents, not by usurping their role or overriding their authority. Exceptions are cases where parents are clearly failing to fulfill their obligations in serious ways – i.e. cases of abuse and neglect, non-ideologically defined, or, as occurs with adoption and foster care, when biological parents are unable or unwilling to raise a child themselves. In such cases the state can step in to ensure that the child receives the care she needs, ideally by finding other parents willing and able to take on the task. The state also has a direct responsibility for survival of the political community into the future, which includes a responsibility to ensure that children grow up to be law-abiding, productive citizens capable of fulfilling their civic duties. However, insofar as is possible, the state must fulfill this responsibility in ways that respect the primary parental authority and conscience rights of parents. This means that the state can enact laws that, for instance, set minimal educational requirements that all parents must meet in some way – by sending their children to an adequate school or by educating them at home – but even in this regard the state should accommodate parents when those requirements prevent them from educating their children in line with the dictates of their consciences, unless doing so would
constitute a genuine threat to the public order. This is why I think that, as a matter of principle, the Yoder decision was right, and the Mozart decision was wrong. In addition to supporting exemptions and accommodations for parents when laws prevent them from educating their children as they think best, my view would also imply that respecting parental rights requires genuine school choice for all parents, which means ending the public schools’ monopoly on public educational funding, and limiting regulations on private schools and homeschooling to those which are truly necessary to ensure that children are prepared to be law-abiding, productive citizens.

Response to Objections

Many critics would argue that my view fails to protect children’s autonomy or to give sufficient weight to the importance of education for democratic citizenship. Allow me to respond to these two criticisms in turn.

Autonomy Education

First, with regard to autonomy education, on my account it is easy to see why the state would be usurping parents’ rights by mandating, for instance, that, regardless of parental objections, all schools expose children to a diversity of moral and religious worldviews and encourage children to think critically about the values they are taught at home, in order to promote children’s autonomy. For, as I just noted, it is illegitimate for the state to seek to promote the well-being of children in ways that usurp the authority of parents or undermine parents’ ability to educate their children in line with the dictates of their consciences, except in cases of abuse and neglect. And, while one may worry that an education which shelters children from diverse viewpoints is less than ideal, it is implausible to claim that this amounts to abuse or neglect, unless we think that the meaning of abuse and neglect should change drastically depending on the preferred educational theories of whoever happens to be in power.

However, I also believe that respecting the primacy of parents’ educational authority is actually on balance more likely to promote children’s autonomy than the alternative, at least in most cases. Following Ian MacMullen and Eamonn Callan, I consider autonomy to be characterized by the capacity for rational revision of one’s conception of the good, as well as the capacity for reasonable adherence to a conception of the good. Now, what liberal proponents of mandatory autonomy education often fail to consider – or to take seriously enough – is that autonomy has not only cognitive prerequisites, but also moral prerequisites. Knowledge of diverse worldviews is important for autonomy, but knowledge alone is insufficient. Likewise, critical thinking skills and the habit of rationally scrutinizing one’s ethical commitments are also important, but insufficient. For if autonomy requires that one’s revision of or adherence to one’s conception of the good be based on reason, then autonomy also, and crucially, requires moral virtue as classically understood – that is, the habitual governance of our sub-rational desires in line with reason. In other words, if we want children to grow up to be able to be responsive to reasons in adhering to or revising their ethical commitments, rather than to be guided in their commitments primarily by emotion, and to become autonomous adults I believe that the most important educational task is to help children develop a mature moral character.

In order for children to develop a mature moral character, it is crucial that they receive coherent moral guidance. This coherence is undermined when children are hearing conflicting messages at home and at school. MacMullen also recognizes that coherence is important for children, and as a result recommends that mandatory autonomy education should not involve a challenge to the values taught at home until secondary school. In fact, in his book Faith in Schools? Autonomy, Citizenship, and Religious Education in the Liberal State, he recommends that primary schools actually reinforce the values children are taught at home, in order to provide them with a “secure grounding in a coherent primary culture” that will help them to grasp “the nature and value of personal commitment” and to avoid “the kind of listlessness that can all too easily inhibit autonomy just as much as lack of critical reflection.”\footnote{1} In this respect, his view is more moderate than that of many other liberal theorists.

However, MacMullen believes that once children are capable of engaging in formal abstract thought - usually around age 12 - children’s autonomy interests require that they be exposed to diverse conceptions of the good that may challenge the values they are learning at home. What MacMullen overlooks is that even if early adolescents have the cognitive capacity to think critically about diverse worldviews, they nonetheless are likely to lack the moral maturity

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necessary to evaluate diverse worldviews primarily on the basis of reason, rather than on the basis of what is more appealing at a sub-rational level. Indeed, psychological and neurobiological studies indicate that, while intellectually adolescents demonstrate a sophisticated capacity for rational reflection, their decision-making is marred by short-sightedness and a much higher tendency to impulsivity and immediate gratification than adults. Studies also indicate that adolescents lack insight into what really matters, and thus will give undue weight in their deliberations to trivial considerations while discounting important ones.

If, in the name of autonomy education, schools present a cafeteria-style offering of different conceptions of the good life in which none is portrayed as inherently superior to any of the others adolescents interpret this simply as an invitation to pick and choose elements of different conceptions insofar as they enable them to justify the indulgence of sub-rational desire. For instance, a 15-year-old who is frustrated because his parents won’t let him go to certain parties or see certain movies may be all-too-eager to judge his parents’ value system incoherent or unsatisfying by comparison with less restrictive value systems, regardless of the genuine merits of each.

A child or adolescent who has not yet achieved a stable self-dominion with reference to some conception of the good does not have the inner moral resources – the moral virtues – that are prerequisites for the ability to make fully reasonable judgments about conceptions of the good life. It seems to be precisely for this reason that Aristotle thinks that ethics can be taught only to people of mature moral character, with sufficient life experience, for only “those who desire and are taught only to people of mature moral character, with sufficient life experience, for only “those who desire and act in accordance with a rational principle” will benefit from the study of ethics.²

Further, the fact that adolescents’ reasoning tends to be distorted by sub-rational factors and lack of moral insight – and that they themselves generally do not recognize this – implies that adolescents still need authoritative parental guidance, including clear and consistently-enforced rules of conduct. Studies on parenting styles based on the typology proposed by developmental psychologist Diana Baumrind corroborate this claim, indicating that authoritative parenting – characterized by a blend of responsiveness and demandiness, with clear and firm standards of behavior but also respect for their children’s individuality and encouragement of dialogue – produces the best outcomes not only in early childhood but in adolescence as well.³ Yet autonomy education aims in part at undermining the influence and authority of parents, and could therefore be detrimental.

The weakening of parental moral authority, aside from being potentially harmful in itself, can also undermine parents’ efforts to foster moral virtue in their children, to teach habits of self-mastery, courage, fairness, generosity, and so forth. To introduce children to competing conceptions of the good life before they have learned any one coherent moral view and have developed a strong moral character by habitually governing their actions in accordance with that view may thwart the process of developing a rational dominion over sub-rational desire. Even in adolescence, children’s habits of self-dominion are likely in many cases to be too fragile to survive a critique of the conception of the good that grounded them. Exposure to the merits of conflicting moral views and to criticisms of the moral views that parents are trying to inculcate may endanger the morally immature person’s still precarious dominion of reason over sub-rational desire.

The renowned psychologist and sociologist Francis Ianni conducted some noteworthy empirical research that supports this concern. Ianni and his associates observed and interviewed thousands of adolescents in a variety of communities across the United States in order to understand the roots of both

² Aristotle, Nicomachean Ethics, 1095a10.
success and failure in the delicate transition from adolescence to adulthood. Ianni’s conclusion, reported in his work *The Search for Structure: A Report on American Youth Today*, is that “the most important determinant of how adolescence will be experienced and with what results” is “how the various social contexts of a community are integrated in terms of the continuity and congruence of their values, norms and rules.” In other words, Ianni found that adolescents fare best—in terms of outcomes like academic and professional achievement, avoidance of delinquency, substance abuse, and other problem behaviors, and overall psychosocial development—when family, school, church and peer groups offer a coherent set of values and standards, rather than presenting conflicting messages. This research suggests that the construction of a mature and stable moral identity in adolescence relies heavily on the scaffolding of a harmonious external structure of values.

Thus while advocates of mandatory autonomy education rightfully note the value of autonomy for leading a good life, their arguments are insufficient to show that those who receive an explicitly autonomy-promoting education are, on balance, better prepared to lead a good life than those whose parents shelter them from competing viewpoints. For while the latter are more likely to end up without a commitment to ongoing rational revision of their values, and to lack sympathetic understanding of diverse ways of life, the former (particularly if the values taught in school conflict sharply with those taught at home), are more likely to end up morally confused, incapable of the steadfastness and commitment required for autonomous adherence to a conception of the good, lacking moral virtue more generally, or succumbing to the ever-present temptations to substance abuse, irresponsible sexual conduct, and other problem behaviors that can have long-lasting negative consequences.

However, my account does not imply that there is no place at all for autonomy education in schools. Indeed, the Aristotelian view that I have presented itself speaks in favor of teaching critical thinking skills and encouraging rational reflection on one’s beliefs, in part by engaging with conflicting points of view. Yet this has to be done at the right times and in the right ways so as to avoid the dangers of undermining parental moral authority and/or producing moral confusion in those too immature to benefit from a critical approach to their own values and exposure to alternative worldviews. Thus my view would support, or at least be compatible with, non-mandatory autonomy education programs—programs with an “opt-out” option, or programs offered in situations where even poor parents have feasible alternatives to public schools. Such programs should be non-mandatory so that the potential harms of lack of coherence between the values taught in school and at home can be avoided as much as possible. Further, worries about the inability of standardized autonomy curricula to consider differences in the moral maturity of children at the same grade level, or about the possibly deleterious effects of exposing children to contradictory views too early or in the wrong way, would be mitigated if parents were more involved in designing and implementing such curricula, had the effective ability to choose a school in line with their values, and could, when feasible, exempt their children from classes that they judged to be potentially harmful.

Civic Education

Another argument for requiring that all children be exposed to diverse worldviews in schools focuses not primarily on children’s autonomy interests, but instead on the need to educate children for citizenship in a pluralistic democratic society. This argument is articulated by a number of liberal theorists, including Amy Gutmann, Stephen Macedo and Eamonn Callan. As noted earlier, I agree that the state does have a serious interest in civic education, and that the state’s responsibility and authority in this regard is direct, by contrast with the state’s responsibility for children’s well-being, which is indirect and subsidiary to the authority of parents. What is in dispute, therefore, is not whether the state has the right to establish some educational requirements in the name of preparing children for responsible citizenship, but rather whether the specific educational requirements proposed by Rawlsian liberals like Macedo, Gutmann and Callan are justifiable, given that such requirements would prevent many parents from educating their children in line with the dictates of their consciences.

The sorts of educational requirements that these authors have in mind include things like exposing children to diverse worldviews in order to foster tolerance by helping them appreciate what John Rawls calls the “burdens of judgment” and the “fact of reasonable pluralism,” and to inculcate in them a commitment to public reasonableness, that is, to acting in the political sphere in ways that do not rely solely on their religious beliefs or comprehensive philosophical

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commitments. On this view, the state has a right to ensure that all schools foster these values through their curricula, even if some families would prefer not to expose their children to beliefs in tension with their own. In *Liberal Virtues*, Macedo recognizes that enforcing such civic values will make it difficult to sustain and pass on some traditional ways of life, for “to accept the liberal settlement is to accept institutions, ideas and practices whose influence over our lives and our children’s lives will be broad, deep and relentless: family life, religious life and all paradigmatically private associations take on the color of liberal values.” When liberal educational requirements conflict with parents’ educational vision for their children, Macedo believes that state authority generally trumps parental authority. As he argues in *Diversity and Distrust*: “Each of us can reasonably be asked to surrender some control over our own children for the sake of reasonable common efforts to ensure that all future citizens learn the minimal prerequisites of citizenship. There is no right to be exempted from measures necessary to secure the freedom of all.”

I agree with Macedo that the state ought to ensure that all future citizens learn the minimal prerequisites of citizenship, but I am skeptical of his controversial Rawlsian account of what those prerequisites are. Indeed, it seems that many outstanding citizens, including people like Mother Theresa or even Martin Luther King, Jr., would fail to meet the minimal requirements of citizenship on Macedo’s account. There are a wide variety of views, both within and outside of liberalism, regarding the qualities of good citizens and how to foster them. The specific type of civic education advocated by Rawlsians such as Gutmann, Macedo and Callan serves a state interest – namely, the creation and preservation of a Rawlsian liberal regime – that is, at best, not compelling enough to warrant infringing on the rights of parents, and, at worst, potentially harmful insofar as it would tend toward the elimination or reduction of diverse ways of life that make a positive contribution to the health of our liberal democratic society.

In fact, evidence suggests that traditional religious schools (including homeschools)—the primary target of proposals for mandatory diversity or autonomy education, are actually likely to foster good citizenship and contribute to the health of our democratic society in a number of ways precisely by drawing on resources from within their own traditions. This claim is borne out by research indicating that private or religious schools perform at least as well as public schools with regard to civic education. Patrick Wolf, for example, analyzes twenty-one studies on this topic, and concludes that “the effect of private schooling or school choice on civic values is most often neutral or positive,” and that positive effects are greatest for students in Catholic schools. Similarly, David Campbell’s fine-grained analysis of the 1996 National Household Education Survey shows that, on balance, private and religious schools do better than public schools in terms of encouraging community service, teaching civic skills and knowledge, and fostering political tolerance. Once again, the positive difference was especially noteworthy for Catholic schools. Research specifically on Muslim schools in the United States and Canada also indicates that these schools neither isolate students from the diversity of the larger society nor breed intolerance, but actually foster civic engagement and interfaith dialogue.

While of course some private or religious schools or homeschools will fail to teach civic virtues, studies like these show that such schools are the exception rather than the rule, and therefore that the coercive civic education measures which Rawlsian liberals recommend are unnecessary.

Traditional religious education also fosters social harmony and good citizenship indirectly by fostering moral virtue. While traditional religious schools or homeschooling parents may not produce citizens committed to public reasonableness, they are arguably more likely than other educational environments to produce citizens of strong moral character. And, as I have already argued, lack of coherence between the values taught at home and in school can threaten the development of moral virtue. In fact, it is often a desire to foster good character in their children that leads parents to object to many aspects of autonomy or diversity education. As Shelley Burtt points out, religious parents and schools are not inimical to rational inquiry or to tolerance correctly understood.

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Rather, they “desire to provide and then preserve, in the face of an aggressively materialistic culture, a sense of the transcendent in human life,” and they aim “to supply the child with the resources necessary to live a righteous life, to prevent as far as possible the corruption that can follow from too early or too overwhelming temptation to sin.”

Supporting Burtt’s characterization, Paul Kienel, speaking as executive director of the Association of Christian Schools International, described Christian schools as akin to hothouses “designed to protect young, tender plants during their growing years” by sheltering them from temptations until they have developed a moral character that is strong enough to withstand them.

Perhaps these efforts may actually do a greater service to the preservation of democracy than the sort of education promoted by Rawlsian liberals. Indeed, following Tocqueville, one could argue that traditional religious education helps to counteract the tendencies toward individualism and materialism that threaten to undermine the health of democratic societies.

The powerful positive impact of religious schools particularly in the most underprivileged communities has been well-documented. Not only is it true that students who attend religious schools are much more likely than their peers at urban public schools to graduate from high school, earn a college degree, have a stable marriage, get a good job and be involved in their communities as adults, but the presence of religious schools also has a broader positive effect on the community itself. In their recent book Lost Classroom, Lost Community, Margaret Brinig and Nicole Garnett show how urban Catholic schools build social capital in the communities they serve, contributing to social harmony and to the reduction of violent crime.

For instance, they found that urban Chicago neighborhoods with an open Catholic school had 33-percent lower crime rates than neighborhoods in which a Catholic school had recently closed. A study of Philadelphia’s urban communities revealed similar results.

**Conclusion**

What I have argued is that a robust notion of parental rights – which includes the right to shelter one’s children from the kind of exposure to diverse ways of life that Rawlsian liberals would want to require – is compatible not only with respect for children’s future autonomy, but also with a concern for the education of future citizens capable of living peacefully and respectfully with those of different creeds, and of participating meaningfully in civic and political life. Of course, parental rights are not absolute, and the state may step in when parents seek to educate their children in ways that are abusive or neglectful, or that would threaten the civic order. On my view, there is a truly compelling state interest in what I call education for minimally decent citizenship, understood roughly as an education that will foster law-abidingness, encourage respect for all persons (though not necessarily for their ideas), prepare children to be economically self-supporting as adults, teach them the basics regarding our nation’s history and government, and inform them of their civic rights and responsibilities. It could be justifiable, therefore, for the state to require all schools to include at least these basic aspects of civic education in their curricula, while leaving them free to determine how to do so. But for the state to go beyond this in its requirements – as Rawlsian liberals propose – would be an unjust encroachment on parental rights. Further, even when it comes to such minimal requirements, exemptions should be given to groups like the Amish whose religious freedom and parental rights would be substantially burdened by them, and who have proven themselves to be peaceful, self-supporting and law-abiding. The bottom line is that, except where the state has an interest that is truly compelling, and where the policy is narrowly tailored to the achievement of that interest, the fundamental rights of individuals – including the rights of parents to raise their children as they think best – ought to be respected.

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Dual Allegiances?
American Citizenship and Religious Obligations

Rogers M. Smith

This essay sketches an overview of the historical relationship of American citizenship to those who claim dual allegiances, particularly allegiance to religious traditions, and particularly the three great Abrahamic religious traditions, Judaism, Christianity, and Islam. Rogers M. Smith, Ph.D., is Christopher H. Browne Distinguished Professor of Political Science and was President of the American Political Science Association, 2018-19.

Most political communities historically have had an official religion. As a political scientist, I have argued that this is so for a political reason: little if anything inspires political allegiance as much as a belief that it is a divine obligation. The United States was probably the first nation that did not have an established church; but that was not because doing so was altogether foreign to the American mind. It was because some of the new states, like New Hampshire, Massachusetts and Connecticut, had established Congregationalist churches, while many others, including Virginia, New York, Maryland, and the Carolinas, had established the Anglican or Episcopal Church, though Maryland had originally been a proprietary colony of the Catholic Lord Baltimore. Only the Baptists of Rhode Island and the Quakers of Pennsylvania adopted policies of religious freedom. This diversity among the newly independent states meant there could be no agreement on a Church of the United States. Instead, the 1787 Constitution banned religious tests for federal offices, and the First Amendment then banned federal laws respecting the establishment of religion or prohibiting the free exercise thereof.

Those dis-establishmentarian measures also reflected the fact that the religious fervor of the First Great Awakening in the early 18th century had died down by the time of the American Revolution, so that many leading revolutionaries came to favor greater separation of church and state, particularly in those colonies where the Anglican Church raised issues of competing allegiances to England. Jefferson and Madison led the effort to dis-establish the Anglican church in Virginia in the 1780s, with Madison arguing that believers had an allegiance to God that should not be subordinated to state religious mandates. Nonetheless, the American revolutionaries justified their cause partly in religious terms: even the secular-minded Thomas Paine wrote in “Common Sense” that it appeared to be the plan of Providence for America to become independent, and that the new Americans would be a “brotherhood” of “European Christians.” And for many, this meant Protestant Christians: one of the catalysts of the Revolution was the Quebec Act of 1774, which offended Protestant colonists by granting religious freedom and equal status to Quebec’s Catholics. Maryland had already reacted against its Catholic origins by banning Catholics from holding public offices, and Catholics were unpopular in most other areas.

Like most nations until the last third of the 20th century, moreover, the United States was long wary of dual allegiances. From the first naturalization act in 1790 onward, applicants were required to take an oath not only to “support the Constitution: but also to“absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereign.” Just as for John Locke, whose “Letter concerning Religious Toleration” was widely read in the colonies, for Americans until well into the 20th century, it remained Catholics who were most suspected of holding dual allegiances inconsistent with American

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2 Sydney E. Ahlstrom, A Religious History of the American People (Yale University Press, 1972), 99-120.
citizenship. Many revolutionaries actually identified with Jews, seeing themselves as God’s new chosen people, a conception that contributed to Yale’s inscribing its motto, Light and Truth, in Hebrew as well as Latin on its coat of arms. Admittedly, however, this admiration for Jews was somewhat like the admiration Euro-descended Americans sometimes expressed for Native Americans: they had their virtues but they still needed to assimilate if they were to be acceptable in the new Republic. Throughout the first two-thirds of the 19th century, most Jews appear to have done so, sometimes ceasing to identify as Jewish.

Muslims were rare in the new nation, but also not objects of any particular suspicion or hostility. Muslim slaves from Africa suffered brutal treatment, but primarily because they were slaves, not because they were Muslims. When the U.S. settled disputes over the Barbary pirates via the Treaty of Tripoli in 1797, the Senate overwhelmingly approved and President John Adams endorsed its Article 11. It states: “As the government of the United States of America is not in any sense founded on the Christian Religion,-as it has in itself no character of enmity against the laws, religion or tranquility of Musselmans,-and as the said States never have entered into any war or act of hostility against any Mehemitan nation, it is declared by the parties that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries” (the U.S. and what is now Libya).5

In those same years, however, Adams and his fellow Federalists were increasing the residency period for naturalization, fearing immigrants from monarchical countries and especially from Catholic monarchical countries, as well as just people who might vote Jeffersonian. The Federalists and their naturalization policies lost out after the election of 1800. However, from the 1830s through the 1850s, the influx of Irish and German Catholic immigrants, in the face of the resurgent Protestantism of the Second Great Awakening, spurred the rise of American nativism, beginning with Samuel F. B. Morse’s 1835 screed, “Imminent Dangers to the Free Institutions of the United States.”6 It portrayed Catholic immigrants, said to “obey their priests as demigods,” as tools of a Jesuit conspiracy to subject America to “Roman Catholic…despotism.” In a similar spirit, in May and July of 1844 in Philadelphia, government militia assisted Protestant citizens as they rioted against Catholics who opposed using the Protestant bible in the public schools. The Protestant rioters burned Catholic churches and killed and wounded hundreds.

Nonetheless, these nativist campaigns and the later Know-Nothing Parties of the 1850s failed to change U.S. immigration, naturalization and citizenship policies, apart from ultimately conceding the legitimacy of Catholic parochial schools. But after the Civil War, the Grant Administration had no problem authorizing different Christian denominations to take over relations with particular tribes in order to convert them to Christianity; while the Supreme Court had no trouble overriding the polygamous beliefs and practices of the Church of Jesus Christ of the Latter Day Saints as inconsistent both with American republicanism and civilized religions. Throughout the 19th century, most state and local governments actively aided and accommodated the dominant forms of Christianity and hindered minority religions, without protest from American courts.7

With those precedents, it is not surprising that many native-stock Protestant Americans of all classes reacted with renewed hostility to the heightened immigration of Southern and Eastern European Jews and Catholics in the late 19th and early 20th century. Calls for immigration restriction began in the 1890s and ultimately produced the primarily race-based National Origins Quota System from the 1920s through the 1960s.8 However, the racial theories used to justify that system often portrayed the Jews and Catholics from these regions as constituting the lower, and untrustworthy, ranks of the white race. The revived Ku Klux Klan of the 1920s, based as much in Indiana as in the South, propagated hatred toward Jews and Catholics as much as toward


African-Americans. In the Northeast and other parts of the country, Jews like African-Americans came to be denied housing opportunities through restrictive covenants and faced other forms of discrimination. Though Islam per se was still not an object of special suspicion or enmity, the rise of the African-American Nation of Islam was met with the harsh repressions American whites wielded against most forms of African-American self-assertion.

Much changed with America and the world’s response to the revelations of Nazi atrocities in World War II, and America’s post-war role in trying to be the world’s leader toward democracy, freedom, and human rights against what the U.S. portrayed as totalitarian Communism. Early in the war, in a case arising in Pennsylvania, the Supreme Court upheld the promotion of citizenship through requiring even schoolchildren belonging to dissenting religious groups like the Jehovah’s Witnesses to salute the American flag at the start of the school day (Minersville School District v. Gobitis, 310 U.S. 586 [1940]). But, pressured by civil liberties advocates that included many Jewish leaders, it soon reversed that ruling, seeing it as licensing denials of free expression and religious bigotry (West Virginia State Board of Education v. Barnette, 319 U.S. 624 [1943]). The nation went on to elect its first Catholic President, the ardent Cold Warrior John F. Kennedy, in 1960. The Supreme Court banned mandatory school prayers, always overwhelmingly Protestant, in 1962 and 1963 (Engel v. Vitale, 370 U.S. 421 [1962]; Abington School District v. Schempp, 374 U.S. 203 [1963]). Congress ended the National Origins Quota System in 1965. And though the naturalization oath has continued to require applicants to renounce foreign allegiances, under the pressure of Supreme Court decisions from 1967 on, the State Department has increasingly indicated that the U.S. does not object to most forms of dual citizenship, following that policy strictly since 1990. In these same decisions, the Supreme Court has narrowed drastically the actions of dual citizens that constitute renunciations of their American citizenship (see e.g. Afroyim v. Rusk, 387 U.S. 253 [1967]; Vance v. Terrazas, 444 U.S. 252 [1980]).

Conservative Protestants and Catholics formed a political alliance against secular liberalism in the 1970s, greatly contributing to the political successes of modern conservatism in America from 1980 on. Partly as a result, today the Supreme Court has five Catholic justices; three Jews; and one Episcopalian who was raised a Catholic. These justices all certainly have their critics, but none are suspected of giving allegiance to anyone other than the United States. In 2000, the Democrats nominated an observant Jew for Vice President, and the Democrats’ candidates in 2020 included the Jewish Bernie Sanders and Michael Bloomberg, as well as the Catholic Joe Biden, the Episcopalian Pete Buttigieg, the Congregationalist Amy Klobuchar, the Methodist Elizabeth Warren, and the Hindu Tulsi Gabbard. None of these religious affiliations was a campaign issue.

But it is no secret that since the 9/11 attacks, Muslims have come to be regarded with far greater suspicion and hostility, beginning with a Special Registration initiative aimed at Muslim immigrant men during the Bush administration, led by the now-prominent nativist Kris Kobach, and continuing through the mildly modified “Muslim ban” on immigrants from six nations that President Trump has imposed. Trump’s Inaugural Address stated that “the bedrock of our politics will be a total allegiance to the United States” and he has sharply criticized the kinds of notions of cosmopolitan or global citizenship that fostered greater acceptance of dual citizenships in preceding decades, while questioning the allegiances of Muslim members of Congress. At the same time, he has promised that in his administration, “Christian heritage will be cherished, protected, defended, like you’ve never seen before.”

His administration is pushing for the Supreme Court to rule it is not only constitutionally permissible, it is constitutionally mandatory, for states to fund religious schools on the same basis as secular public ones, in order not to be found guilty of religious discrimination. Christian schools are the chief proponents and will be the chief beneficiaries of any such ruling. And most conservative

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9 Spiro, Citizenship, 105.

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12 Erica L. Green, “Religious School Choice May Yield Landmark Supreme Court Decision,” New
Christians now see themselves as great allies of Israel and Jews, in order to fulfill what they see as Biblical prophecies that do not in fact end so well for Jews, the resurgence of white nationalist movements in the Trump era has included a new wave of anti-Semitic incidents. So issues of dual allegiances, and especially the allegiances and the rights of members of non-Christian religions including Muslims and Jews, are gaining renewed prominence in the current moment, as they have periodically since the nation’s inception. These are issues that should be addressed in ways shaped by all the perspectives of the diverse variety of American believers and non-believers, not simply those that have historically most shaped the relationship of American citizenship to what many believers see as higher allegiances.

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*York Times, January 21, 2020:*

Faithful Americans:
Catholic Reconciliations of Identity in Early America

Michael D. Breidenbach

This essay is a slightly adapted version of a talk given at the “Dual Allegiances in America: Christian, Jewish, and Muslim Perspectives on Civil and Religious Identities” event at the University of Pennsylvania Law School in February 2020. It is meant to complement Rogers Smith’s overview of contested religious identities in America with the perspective of a specialist on the history of American Catholic political thought. Michael D. Breidenbach, Ph.D., is Visiting Faculty Fellow at Collegium Institute, Research Associate at the McNeil Center for Early American Studies at the University of Pennsylvania, and Associate Professor of History at Ave Maria University.

The problem of dual allegiances often arises when religious minorities live under a government that publicly recognizes and supports a different religion, as when Jews and Muslims lived in the Christian kingdoms of medieval Europe. Yet the difficulty of dual allegiances has also occurred in societies that broadly recognized the same religion but sustained sharp denominational divisions. This problem was especially pronounced in early America. In particular, many early American Protestants distrusted the political allegiances of Catholics. In most American colonies, Catholics were prohibited from holding public office, worshiping in public, sending their children to Catholic schools, and other injunctions. Catholicism was considered a great threat to American society because, on this view, Catholics pledged their ultimate allegiance to the pope. Boston revolutionary Samuel Adams explained that “Papists” bring “subversion of Government, by introducing … that solecism in politicks, Imperium in imperio [a state within a state] leading directly to the worst anarchy and confusion, civil discord, war and blood shed.”

What made Catholicism so odious were two claims concerning papal authority: that the pope held authority over all civil rulers, including even the right to depose them, and that the pope claimed infallible teaching authority in matters of faith and morals. These two beliefs were considered fatal for one’s civil allegiance. If Catholics believed that the pope could depose a civil ruler or authorize resistance against civil laws, then Catholics were traitors-in-waiting. As John Locke argued, they should not be tolerated. To answer these charges, American Catholics developed three often overlapping strategies: avoiding the controversy altogether, denying these two beliefs about papal authority, and emphasizing their public service to their country.

Catholics employed the first strategy in the seventeenth century, when English kings required their subjects to swear the Oath of Allegiance. This oath demanded that subjects bear allegiance to the king. It also required subjects to reject the beliefs that the pope could depose the king, or absolve oaths to him, or incite rebellion against him. Anyone sailing to the English colonies had to take this oath. For the vast majority of settlers, this posed no problem. But for Catholics sailing to America, this presented a challenge: The pope decreed that any Catholic who swore the Oath of Allegiance would be automatically excommunicated from the Church. Catholics were therefore presented with a dilemma. They could choose to avoid the controversy altogether, or they could attempt to deny these two beliefs about papal authority. Alternatively, they could emphasize their public service to their country.


3 Oath of Allegiance (An Act for the Better Discovering and Repressing of Popish Recusants on Rejecting Papal Authority to Depose the King), January 1, 1606, 3 Jac. 1, c. 4.
with the irreconcilable options of disloyalty or heresy.

Finding a solution to the Oath of Allegiance controversy was all the more urgent for the founder of Maryland, Cecil Calvert. Calvert was a Catholic convert who desired Catholic settlers for his new colony. Calvert’s strategy was to revise the Oath of Allegiance. In his new oath, he erased all the controversial clauses about papal authority. His oath required a simple pledge of fidelity to the king and avoided the questions about Catholics’ dual loyalties altogether. Of course, Cecil Calvert had not resolved the underlying tensions between civil and religious authorities. But he had created a space for Catholics and Protestants to coexist in relative freedom.⁴

The second strategy that Catholics used was to deny the papal powers that made Catholics civilly suspect. This strategy was used by the first Catholic bishop in the United States, John Carroll. Like many other Anglophone Catholics of his time, Bishop Carroll believed that the pope was the center of ecclesiastical unity for Catholics, but that he could not teach infallibly by himself. According to this tradition, only the authoritative teachings of a general council—in which all the bishops convened together—could be infallible. Furthermore, Bishop Carroll believed that the only authority a pope had was, in his words, “purely spiritual,” and that this authority could not in any way contradict what citizens owed to their country.⁵ He even demanded that the first bishop should be elected by his fellow clergy, not appointed by the pope, for fear that a papal appointment would be seen to interfere in American affairs.⁶

Yet some Protestants remained suspicious of Catholics who denied this papal authority. They argued that such Catholics were, in the words of John Locke, “false” and “fallacious” for thinking that they could separate the pope’s spiritual and temporal powers. Catholics therefore attempted to show their loyalty through public service to their country. Charles Carroll of Carrollton employed this third strategy. Like his second cousin Bishop Carroll, Charles Carroll denied these two claims about papal authority. But he also showed his loyalty to the American republic as a member of the Continental Congress, a signer of the Declaration of Independence, an emissary seeking Canadian support for the Revolutionary War, and a senator in the First Federal Congress.⁷ When one congressman in 1795 began to “ridicule … certain tenets in the Roman Catholic religion” during Congress’s immigration debates, James Madison replied that “Americans had no right to ridicule Catholics. They had … proved good citizens during the Revolution.”⁸ James Madison’s personal friendship with John and Charles Carroll, as well as the sacrifices of Catholics in the Revolutionary War, seemed to impress upon Madison the compatibility of Catholics’ dual allegiances.

Yet the specter of papal interference in American affairs continued to fuel anti-Catholicism throughout the centuries, from the nineteenth-century riots in Philadelphia to the questions about John F. Kennedy’s fitness for the presidency as a Catholic. So while these three strategies proved relatively successful in early America, the fact that Catholics had to use them indicates that America is a jealous sovereign, requiring, as the U.S. Naturalization Oath states, the renunciation of “all allegiance … to any foreign prince, potentate, state, or sovereignty.”⁹

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⁴ Catholic Liberties: Dual Allegiances in Early America (Harvard University Press, under contract).
⁸ On Charles Carroll’s efforts in the American founding, see Breidenbach, “Conciliarism and the American Founding,” 490-96.
That oath is the same today as it was in the beginning of the republic, and its challenge for dual allegiances continues.
Freedoms Like a Fox: The Constitutional Community and First Amendment Rights

Luke C. Sheahan

First Amendment rights are often defended as essential to American democracy, but such a defense misses the fundamental point that such rights are not about preserving political power, but shielding social groups from political interference. To understand this dynamic, one must think like a fox, not a hedgehog. Dr. Luke C. Sheahan is Assistant Professor in the Department of Political Science at Duquesne University and a non-resident scholar at PRRUCS. He is author of Why Associations Matter: The Case for First Amendment Pluralism.

“The fox knows many things, but the hedgehog knows one big thing.” Archilochus, Greek Poet

Isaiah Berlin opens his essay on Tolstoy’s view of history with a meditation upon this ancient aphorism. Berlin writes:

[T]aken figuratively, the words can be made to yield a sense in which they mark one of the deepest differences which divide writers and thinkers, and, it may be, human beings in general. For there exists a great chasm between those, on one side, who relate everything to a single central vision, one system, less or more coherent or articulate, in terms of which they understand, think and feel—a single, universal, organizing principle in terms of which alone all that they are and say has significance—and, on the other side, those who pursue many ends, often unrelated and even contradictory, connected, if at all, only in some de facto way, for some psychological or physiological cause, related to no moral or aesthetic principle...The first kind of intellectual and artistic personality belongs to the hedgehogs, the second to the foxes.

This distinction between two basic orientations of intellectual personality may help us think about many things, including the nature of community in general and the nature of our constitutional order in particular. Here I won’t attempt to interrogate Tolstoy or Berlin himself on whether either is a fox or a hedgehog. I would turn instead to inquire what it might mean for the First Amendment specifically to be a fox or a hedgehog, to contemplate one principle or many.

Berlin’s basic distinction between two types of thinking bears a resemblance to that made by the American sociologist Robert Nisbet between two basic tendencies in political thought. Nisbet described these basic dispositions by the terms “monist” and “pluralist” which correspond to Berlin’s hedgehog and fox. Nisbet believed that the political ideologies of the modern world as we normally describe them, conservatism, liberalism, and radicalism, are not the primary philosophical fissures of our time. Monism and pluralism refer to a more fundamental philosophical orientation that determines how one’s political ideology plays out in a way more consequential to practical considerations than is the ideological orientation taken by itself. So it is better to think not in terms of three political ideologies, but of six: conservative, liberal, and radical pluralisms on one side and conservative, liberal, and radical monisms on the other. Nisbet contends that the fundamental philosophical orientation of the political ideologies creates an underlying unity between the ideologies that is more indicative of how one behaves in the policy realm than is the purported divide between ideologies. I contend that this fundamental philosophical orientation is related specifically to how one understands the fundamental nature of the constitutional order, which in turn determines how one reads particular constitutional clauses.


3 Robert Nisbet, Twilight of Authority (Liberty Fund Books, 1975), 41-45.
The political ideologies are still substantive divisions between citizens’ political viewpoints and interests. But the varied policy goals they pursue are determined at a more fundamental level by whether the actors are of a monist or pluralist orientation. Pluralists will seek immunities for social groups from political power, making a distinction between political authorities and social authorities. Which groups get the immunities and to what extent will be determined by the ideology. Conservative pluralists will prioritize traditional institutions, especially those associated with family and religion. Liberal pluralists, who value individual liberty, will seek immunities for voluntary associations. And radical pluralists will pursue protection for new forms of association to replace the old. The ideological differences are real, but all strains of pluralists are united in a fundamental theoretical orientation that values immunities for social authorities from the intrusion of political power.

In contrast, monists seek not immunity from political power, but political power itself to achieve their aims. They promise constituents the proper use of power on the campaign trail and employ it to their own ideological ends when in office. The use of political power will differ between the ideologies. Conservative monists will pursue state support for traditional values and groups. Liberal monists will instantiate state programs intended to liberate the individual from social ties. And radical monists will use state power to overturn the established order, even that of the state itself.

Note that whether monist or pluralist, the conservative remains conservative in his aims and rhetoric, the liberal liberal, and the radical ineradicably radical. But there is an underlying unity between adherents of the three ideologies in each philosophical category. The pluralists (of whatever ideological stripe) have many aims and the monists just one. The pluralists are foxes and the monists, hedgehogs.

The pluralists’ many aims center on securing immunity from state power for a variety of groups, which entails enabling a plethora of social authorities to remain fundamentally distinct from political power. The character of these social authorities and their final purposes differ depending upon the ideological variation of the pluralist, but protection for the autonomy of social groups is the underlying goal of all of them, no matter the variation. The pluralists conceive of society as composed of a variety of purposes pursued by a diversity of social groups, each with its own ends and each with some measure of immunity from the authority of the others. The structure of a plural society will allow for the pursuit of many ends through the work of many social authorities. In this sense pluralists have many aims, at least as many as the plural society has groups. In contrast, the monists have just one aim: the capture of political power for a single purpose, the institution of their own ideological goals. The purposes to which political power will be put differs between the ideologies. But the fundamental structure of a monist society, or a society where monist ideologies compete, is the same. All have one aim. For the monist, the important things can only be accomplished through the exercise of political power.

Nisbet’s typology is vulnerable to Berlin’s characterization of his own dichotomy between the fox and the hedgehog. Berlin writes:

Of course, like all over-simple classifications of this type, the dichotomy becomes, if pressed, artificial, scholastic and ultimately absurd. But if it is not an aid to serious criticism, neither should it be rejected as being merely superficial or frivolous; like all distinctions which embody any degree of truth, it offers a point of view from which to look and compare, a starting-point for genuine investigation. 

This is precisely what Nisbet’s description provides: a point of view, a starting-point for genuine investigation of a variety of issues related to political order.

Here I will use Nisbet’s dichotomy between monist and pluralist as a “starting-point for genuine investigation” upon how we view the American constitutional community as it relates to our understanding of the First Amendment. Do we see our constitutional order as preserving a realm of autonomy for a variety of groups, each with its own end, or is the preservation of these groups justified only by their relation to our political order? Do we

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4 Berlin, 437. His application of this idea to Tolstoy was apparently lighthearted, but nonetheless enlightening. Jahanbegloo, Ramin, Conversations with Isaiah Berlin (Halban, 2000), 188. “I never meant it very seriously. I meant it as a kind of enjoyable intellectual game, but it was taken seriously. Every classification throws light on something.”
conceive our constitutional order as having a variety of purposes, or does every clause and article serve one unitary principle? The fundamental approach to the constitutional community, whether one is conservative, liberal, or radical, will be largely guided by whether one’s political thought is essentially monist or pluralist. I will take this point further to say that how one sees First Amendment rights, will be determined by how one understands the purpose of those rights: whether they are unitary or plural, whether there is one purpose or many purposes, whether they exist only to augment political power or whether they serve to protect the social realm in all its plurality from the intrusions of political power.

**The Political Community**

In *The Social Philosophers*, Nisbet describes in detail the intellectual genealogy of the monist and pluralist ways of thinking.⁵ There he casts each of these as different approaches to community, describing the monist view as the “political community” and the pluralist as the “plural community.” Nisbet locates the origins of political monism in the political thought of Plato, who believed the highest good was found in the unity of the polis. He described Plato’s political philosophy as “a blend of rigorous social nihilism and political affirmation”⁶ by which he meant that Plato annihilates the social order, including the order of the family, and affirms the absolute authority of the political order as the highest good toward which all lower associations must be oriented. Rather than crushing the individual, Plato’s theory emancipates the individual from the stresses and factions of social life, where a variety of social groups assert conflicting authorities over the individual, thus providing the individual with an absolute community, one that ostensibly enables him to achieve his highest potential. Nisbet writes, “The mission of the political community is for Plato no more and no less than the means whereby all the native powers and excellences of the individual are brought to fruition.”⁷ Education is designed to help the individual be no more and no less than a proper member of the political community. For the guardian class, there is to be no family and no social attachment whatsoever other than that of the polis. In the end the individual achieves the highest form of freedom by being joined with his fellow citizens in the oneness of the political community. Nisbet writes, “Such was the power of [Plato’s] portrait of the political community that it has remained for some twenty-five hundred years the major inspiration for all other portraits of this form of community.”⁸

Plato’s influence upon Western political thought results in a tendency to glorify political power, casting it as necessary not only for stability but for justice, not only to secure political order but moral order as well. As the highest form of moral order, the political order has not only coercive authority, but moral authority over all other social authorities contained within it that justifies its absolute coercive authority. These authorities of the social realm are valuable insofar as they enhance the power of the state and advance its prerogatives. This way of thinking is reflected in Roman law, with its concepts of sovereignty, concession, and contract. Sovereignty is the central principle of the political community, with the political order claiming a monopoly on legitimate force and presiding over other social authorities. The principle of concession flows directly from this idea of sovereignty. Associations and groups exist only because the political power concedes their existence. They do not exist of their own accord for their own purposes. Only through the principle of contract do individuals interact with each other in associations. The primary relationship of all persons is between themselves as citizens and the sovereign. Nothing is allowed to intervene in that relationship or challenge its supremacy. All other relationships are merely contractual, dissolved at the whim of the individual parties.⁹

Nisbet sees the primacy attributed to the relationship between sovereign and citizen instantiated in the political community and the accompanying suspicion and hostility to groups in the work of Machiavelli, Jean Bodin, Thomas Hobbes, and especially Jean Jacques Rousseau. Machiavelli and Bodin wrote at the beginning of the modern period and both are insistent upon the supremacy of political power over social authorities. Bodin does provide for absolute immunity for the family from the

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state, but he finds little else that may guard against the supremacy of the prince. Thomas Hobbes likewise advocates the supremacy of the political sovereign as the source of order, imbuing political power with a salvific quality. The sovereign saves his subjects from social disorder, from the claims of family and religion which are the source of so much social strife. Like Plato, Hobbes and the rest advocate “rigorous social nihilism and political affirmation,” they affirm political power while suppressing social authorities.\(^\text{10}\)

Rousseau is Nisbet’s greatest exemplar of the political community because more than anyone else Rousseau conceives political power as the source of moral order. He is “the first to justify absolute power in the name of virtue, equality, and freedom.”\(^\text{11}\)

Like Plato, Rousseau posits in the political community the highest form of social liberation for the individual combined with total political subordination. By joining the political community, the individual is freed from the partial allegiances of other social authorities, especially the family. Children must be freed from the “prejudices of the fathers” so that they can be united to others as equal citizens in the political state. Recalcitrant individuals can be forced to join the political community which is not suppression of individuality, but, in Rousseau’s words, merely individuals being “compelled to be free.”\(^\text{12}\) Rather than an imposition on moral autonomy, for Rousseau this conception of the political community liberates the individual from what Marx called “false consciousness” instilled by the authority of family and other private associations. On this logic, religion too must be subordinated to the state, existing only as civil religion, valuable only insofar as it bolsters state power by encouraging individual allegiance to the state.\(^\text{13}\)

Consonant with the political community is a fundamental way of thinking that focuses upon unity and oneness. The philosophers of the political community know one thing: political order. All apparent social diversity is either merely manifestation of the fundamental oneness of the political community or a threat to the ultimate unity of the political community and therefore necessarily suppressed.

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\(^{10}\) Nisbet, Social Philosophers, 129-145.
\(^{11}\) Nisbet, Social Philosophers, 153.
\(^{12}\) Quoted in Nisbet, Social Philosophers, 150.
\(^{13}\) Nisbet, Social Philosophers, 153-5.

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\(^{14}\) Nisbet, Social Philosophers, 393.
\(^{15}\) Nisbet, Social Philosophers, 396-407.
\(^{16}\) NIsbet, Social Philosophers, 407-414.

The Plural Community

Nisbet juxtaposes this pattern of relations between the individual and the sovereign in the political community, one characterized by “rigorous social nihilism and political affirmation,” to that between individuals and a plethora of social authorities in what he calls the “plural community.” Thinkers in this vein begin with Aristotle who saw not unity in the polis, but some level of irreducible diversity.\(^\text{14}\) Every society will have at least the rich and the poor. And there will always be a variety of occupations and a range of financial and social interests. All of these must be accommodated in some way.

The pluralist structure of society and its consonant way of thinking about community is key to understanding the medieval political and social order. Nisbet sees in medieval history a variety of groups making claims of authority upon individuals. The church, of course, but also kings, aristocrats, free towns, village communities, guilds, and the like. These authorities clashed and sometimes made conflicting claims upon their members. But in the process they permitted remarkable social and economic diversity and, while not emphasized by contemporaries at the time or modern commentators, they permitted a great deal of freedom because no particular authority could make an absolute claim upon an individual without clashing with competing claims of other authorities.

A defense of the plural community appears at the very beginning of the modern period in the work of Johannes Althusius, just as the great defenses of the central authority of the modern state are being made by Bodin, Machiavelli, and the first modern philosophers of the political community. Writing in the early seventeenth century, Althusius advocates an essentially medieval form of political community, one characterized by decentralization, respect for social hierarchy, and the like.\(^\text{15}\) But his work was contrary to the spirit of the times and thus largely ignored. It was not until the end of the next century that the plural community would find its most articulate and influential defense in the work of the British statesman Edmund Burke.\(^\text{16}\) Burke argued that the British constitutional order was characterized not by unity, but by diversity, with every person
ensconced in a variety of “little platoons” throughout civil society." These small associations are essential to individual wellbeing. To the extent that we can relate to the larger political order we only do so effectively through these associations. Burke writes, “We begin our public affections in our families. No cold relation is a zealous citizen. We pass on to our neighbourhoods, and our habitual provincial connections. These are inns and resting places.”

Althusius and others may have predated Burke, but it is to Burke, Nisbet contends, that conservatives, liberals, and radicals in the pluralist mode have taken their inspiration. Nisbet sees conservative pluralism in the thought of Friedrich Hegel and Louis de Bonald, liberal pluralism in the works of Robert de Lamennais and Alexis de Tocqueville, and radical pluralism in the work of Peter Kropotkin and Joseph Proudhon. While each of these political orientations differs in political aims, conservatives wishing to preserve traditional social institutions, liberals seeking to secure the freedom of the individual, and radicals aiming to found a new society upon new social organizations—all accomplish their goals through support for a variety of associations rather than through the assertion of political power.

Constitutional Community and the First Amendment

Applying Nisbet’s typology we can see the way that it hedges the understanding of what First Amendment rights entail and even which First Amendment rights we may have. Each yields a very different vision of what the constitutional community looks like and how First Amendment rights function to uphold that constitutional community. Partisans of the political constitutional community see First Amendment rights as facilitating the interaction between individual and sovereign. Partisans of the plural constitutional community see First Amendment rights as providing immunity from sovereign political power for social groups of different types within that community, not for the purpose of facilitating political power, no matter how democratic it may be, but for the purpose of protecting groups as groups.

A number of prominent scholars of the First Amendment adopt a fundamental orientation of the American constitutional order akin to that of the philosophers of the political community but with an explicitly democratic veneer. Like Plato, they hold that sovereign political power is the highest good, but it is the highest good for democratic reasons, because it is a reflection of the will of the people. First Amendment rights are means to ensure that the will of the people is instantiated. This tends toward a prejudice for freedom of speech and of the press over the freedoms of religion and assembly because of their obvious role in democratic discourse. While it is beyond the scope of this essay to survey all prominent First Amendment scholars of which I speak, we can briefly examine this dynamic in the work of Alexander Meiklejohn, Robert Post, and Supreme Court Justice Stephen Breyer.

Alexander Meiklejohn famously argued in his 1948 Walgreen Lectures at the University of Chicago that free speech is fundamentally a democratic right because free speech is essential to democratic government. Therefore, protection for free speech regarding political matters is absolute under the First Amendment. According to this view, freedom of speech resides in the hearer. To make informed decisions, democratic citizens must have available to them the best possible arguments. For Meiklejohn this means an absolute freedom to hear, which entails first a freedom to speak.

Many First Amendment scholars agree with this assessment of the democratic purpose of First Amendment rights even if they disagree with the details of Meiklejohn’s argument. Yale Law School’s Robert Post argues that Meiklejohn is right to insist that free speech only protects political speech because free speech is fundamentally a democratic right, but the locus of the right is the speaker and not in the hearer. The First Amendment right to free speech is the right to influence one’s fellow citizens.

18 Burke, Reflections, 173.
20 Nisbet, Social Philosophers, 418-29.
22 Published as Alexander Meiklejohn, Free Speech and its Relation to Self-Government (Harper and Row, 1948).
to participate in democracy. This “participatory democracy” paradigm limits Post’s vision of what First Amendment rights might be.

Supreme Court Justice Stephen Breyer argues in his book Active Liberty: Interpreting our Democratic Constitution that the principle of democracy underlies much of our constitutional system, thus the principle of democracy is the lens through which we should interpret the Constitution. Breyer demonstrates his argument through a number of constitutional provisions. When he comes to his discussion of the First Amendment he argues that it exists to protect freedom of speech for the purpose of democratic government. Several points follow from this premise. First, there is no protection for economic speech, such as advertisements, on the grounds that such are not democratic speech. He further is willing to regulate speech when the regulations will better preserve democracy, such as the regulation of campaign finance. These may be important exceptions to the constitutional right of free speech, but the specifics of Breyer’s points are not at issue here. I am pointing to the fact that he makes these exceptions on the basis of his singular devotion to the fundamental value of democracy as the sole interpretive lens for the First Amendment. More egregiously, this is the same reason he gives little attention to First Amendment rights other than freedom of speech. The point of Breyer’s First Amendment is to facilitate conversation among citizens so they are informed in the electoral process.

The defense of free speech advanced by Meiklejohn, Post, and Breyer implies that freedom of speech is limited to matters that are to be decided by the democratic polity. There is little room for a “social” rather than “political” theory of free speech or for a discussion of the purpose of the other rights protected in the First Amendment, which do not so easily fit into a “participatory democracy” paradigm or cannot be easily described as “expressive.” To put it another way, the purpose of the freedom of speech is itself plural. Speech certainly is necessary for democratic government. If the people are truly to rule then they need their own equivalent of the Speech and Debate Clause that shields their opinions from government interference. But a democratic purpose to freedom of speech need not exhaust the purposes of the First Amendment. It is not that these scholars are inaccurately describing the right to freedom of speech and the press, it is that they are unnecessarily circumscribing the extent of First Amendment freedoms according to this fundamental focus upon the role of First Amendment rights in bolstering democratic political power. To the extent that they recognize these rights as immunities from that power, they still see those immunities as deriving from their ability to bolster democratic the democratic political regime. In this way, monist First Amendment thinkers contemplate only one thing in the First Amendment. They are hedgehogs, not foxes.

In juxtaposition to this way of thinking are the pluralist First Amendment scholars. These emphasize the role of the First Amendment in protecting social groups from the intrusion of political power. These groups may facilitate the participation in democracy through their expressive activities and they may shape citizens’ worldviews, affecting public policy in a roundabout way. But that is not the purpose of these groups for pluralists. The purpose of these groups is the ends for which the groups were established, and those purposes are likely to differ greatly between groups and between each particular group and the state. The purpose of religious organizations, for example, is to coordinate and facilitate worship of the divine and consonant activity. This may mean different things to different groups. But to defend First Amendment protection for religious activity in democratic terms is to miss dreadfully the point of those protections. The point of First Amendment protection for religious activity is a fundamentally pluralist one: immunity from political power for the sake of achieving the ends for which the religious organization came into existence. The same is true for expressive associations and other peaceable assemblies. Their existence and activities are protected for at least as many reasons as there are groups. We can see this concern reflected in the work of Richard Garnett, Steven D. Smith, and John Inazu.

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25 Breyer, Active Liberty, 40.
26 Breyer, Active Liberty, 50-55.
27 Breyer, Active Liberty, 43-50.
28 US Constitution, Article 1, Section 6. “Senators and Representatives…for any Speech or Debate in either House…shall not be questioned in any other Place.”
Richard Garnett has written about the importance of religious institutions and the “educational” role of social groups more broadly. Drawing from work on the “infrastructure” of First Amendment rights, Garnett sees in the First Amendment Religion Clauses protection for religious institutions, such as churches. He writes, “Institutions matter, in a special way, to the First Amendment and to the enterprise of enforcing and interpreting it.”

While he is clear that the focus upon institutions in no way interferes with the rights of individuals or subtracts from individual exercise of First Amendment rights, it is also clear that for Garnett the presence and protection of institutions is essential to the proper scope and exercise of religious freedom. “[T]he values and goods that the First Amendment's Religion Clauses are today understood to embody and protect…are well served by a civil-society landscape that is thick with churches (and other religious institutions and associations), and by legal rules that acknowledge and capture their importance.” It is in such institutions that individuals may live out the dictates of their consciences in a way impossible without them.

Like Garnett, Steven Smith argues in The Rise and Decline of American Religious Freedom that the purpose of the Religion Clauses was to resuscitate an ancient ideal of religious freedom that emphasized jurisdicational boundaries between church and state. Our modern idea of religious freedom is predicated upon a more ancient medieval idea of libertas ecclesia, the freedom of the church.

Refusing to establish a state church, the Framers of the First Amendment were recognizing that religious matters were not under the authority of the political state, but under the authority of religious institutions.

When it came to matters of religious doctrine and practice, the church has jurisdiction and the state does not.

John Inazu is perhaps the most insightful First Amendment scholar writing today and one of the most dedicated pluralists, titling one of his books Confident Pluralism: Surviving and Thriving through Deep Difference and arguing there that we should seek a minimum of agreement to “live together in our ‘many-ness.’” He argues in Liberty’s Refuge: The Forgotten Freedom of Assembly that the Assembly Clause is significantly understudied and underappreciated in First Amendment scholarship and jurisprudence. Scholars and jurists routinely ignore the right of Assembly, seeing it as but an addendum to the expressive rights enshrined in the Speech and Press Clauses, as if the only constitutionally protected reason to assemble is to speak. But Inazu points out that looking at the right of assembly through a democratic lens misses the important point that the Assembly Clause was not intended to protect “democratic” groups, or groups that associate for democratic purposes. In fact, the Framers’ intent with the Assembly Clause was to protect groups dissenting from what the majority considers the “common good.” While speech is important, each right shields distinct practices for distinct purposes. A lot is lost when the autonomy of a vast array of groups is compromised. For starters, we lose protection for difference, for those who dissent from “state-enforced majoritarianism.” In short, we lose the plural constitutional community.

Each of these thinkers focuses upon the way in which First Amendment rights protect a plural social order, shielding institutions and assemblies from the intrusion of political power. By focusing upon a variety of social authorities and expanding the horizon of First Amendment inquiry toward clauses other than speech and press and toward functions other than promotion of democratic government, these scholars demonstrate how the First Amendment has anti-majoritarian aspects, protecting a variety of


35 Inazu, Liberty’s Refuge, 186.
dissenting actions and traditions. This manner of conceiving First Amendment rights reveals a means to deeper democratic governance, one where every single voice is sheltered from censorship and every single community receives associational protection, no matter how outside the mainstream they are. Plurality of voices, viewpoint, and ways of life are essential to the plural constitutional order as protected by the pluralists’ First Amendment. In this way, pluralist First Amendment thinkers contemplate many things in the First Amendment. They are foxes, not hedgehogs.

There is much more to say on the precise contours of how First Amendment rights reflect a variety of values or facilitate a variety of social interactions. I barely scratched the surface of what First Amendment scholarship has said on these matters. My point here is to show how the fundamental difference between conceptions of constitutional community makes for a stark contrast when examining First Amendment rights and their fundamental functions. Do the rights of religion, speech, press, assembly, and petition exist only to enable democratic deliberation and thereby democratic sovereignty? Or do they exist to protect a sphere of social action and existence for a variety of social groups that is largely immune from the intrusion of political power? Does the First Amendment exist only to give us a way to facilitate democratic action so that our political ideology can be instantiated in political office? Or does it protect a variety of groups so that we can live together in our “many-ness” in the same constitutional community? In short, is the First Amendment a hedgehog or is it a fox?
Pluralism in the Chinese Political Community:  
A Nisbetian Perspective on the State of Chinese Non-Governmental Organizations and Civil Society  

Luke C. Sheahan

China, notorious for cracking down on dissidents and the social groups of which they are a part, has recently permitted some non-profits to function openly in Chinese society. The work of the American sociologist Robert Nisbet helps us to understand what this might mean for the trajectory of Chinese political society. Dr. Luke C. Sheahan is Assistant Professor of Political Science at Duquesne University and a non-resident scholar at PRRUCS.

Introduction

Over the last two decades, China has witnessed the steady rise of civil society institutions driven in part by policy changes initiated by the Chinese Communist Party (CCP). Non-Governmental Organizations (NGO) have proliferated in recent years and, while eschewing democratic reform, the Chinese government has allowed these groups wide latitude in affecting Chinese social and political policy. These are promising signs of social reform although they must be considered in light of the CCP’s refusal to grant religious and human rights associations equal status to other social organizations and the continuing suppression of dissident groups such as the Uighurs in Western China.

To analyze the efficacy of the recent reforms, this paper considers the question of what the twentieth century American sociologist Robert Nisbet would think about the recent resurgence in Chinese civil society. Nisbet’s work was characterized by the humane concern for the alienated individual, the person bereft of meaningful social bonds, lonely and adrift in a society that seems cold and meaningless, and he connected the social and psychological fate of that person to the exercise of political power over social institutions. In light of the CCP’s traditional opposition to civil society organizations, Nisbet’s work is a helpful lens through which to analyze the liberalization of the Chinese government’s treatment of social groups. I am especially, but not exclusively, interested in how it treats organizations and associations, such as non-profits based both nationally and internationally.

Robert Nisbet was a prominent twentieth century American sociologist and public intellectual. He is most famous for authoring *The Quest for Community* (1953),¹ his analysis of the political causes of the decline of community and increase in alienation in modern nation-states. He received his degrees from the University of California-Berkeley, finishing his dissertation in 1939. He taught at Berkeley until 1953 when he was appointed Dean at the new Riverside campus. He also held academic appointments at the University of Arizona and the Albert Schweitzer Chair at Columbia University. He delivered the Jefferson Lectures in 1987. Nisbet authored more than twenty books, mostly focusing on the nature of community, but also covering the history and methodology of sociology as well as “developmentalism” as a theory of historical change.

Nisbet’s work on pluralism and the social group, which was the topic of most of his books, including *Quest*, is arguably the most incisive of twentieth century thinkers who considered the topic. His analysis of the “political” causes of alienation provides a helpful way of thinking through government policy in relation to social groups and non-governmental organizations. Bringing his perspective to bear upon recent developments in Chinese social reform that have led to an expanded civil society will help to clarify to what extent these developments allow for the sort of communities that

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Nisbet believed important, ones that integrate individuals into meaningful social bonds, or whether the appearance of civil society reform is window-dressing on continued authoritarian policies. It should be noted that window-dressing on authoritarian policies is not a problem for this analysis as long as the effect of the states’s affected behavior is good for the types of social groups that concern us.

My analysis will proceed as follows. I will begin by defining the seven characteristics of Nisbet’s idea of the social group. Then I will describe the juxtaposition Nisbet makes between the “political community,” with its fundamental foundation of individual and central power, and the “plural community,” with its orientation toward a variety of social and political authorities. During this discussion I will define the six tenets of Nisbet’s plural community. Then I will outline a brief history of civil society groups in China since 1949, with special attention paid to the last two decades. I will close with an examination of these reforms in terms of Nisbet’s six principles of pluralism, asking how the reforms contribute to—or detract from—a plural society.

The Political Community and the Plural Community

Nisbet defines a community as having seven characteristics: function, dogma, authority, hierarchy, solidarity, status, and sense of superiority. A plural society secures these seven characteristics for a variety of groups. I will explain each quality and then I will discuss the political community and the plural community. The first quality of Nisbet’s community is function. Every group has a function it performs. An orchestra exists to play classical music, a kinship group exists to beget and to socialize children, and a religious organization exists to organize the proper worship of the divine power. Every community endows its function with a “sense of some transcending purpose,” making it a dogma. The function is not just something that the group does, but a transcendent value, a good that the group pursues. Function and dogma are the two essential qualities of a community. From them are derived all the others.

A group must have the authority to perform its function and to uphold its dogma. Authority need not implicate power or force, but it is the ability of a group to enforce the imperatives of its dogma, to perform its function by guiding its members in the direction appropriate to the group’s goals. Authority requires for the most part voluntary submission by the members of the group to its claims because they find the assertion of authority legitimate. Which means that the authority of the group is exercised for the purpose of the group’s function according to the claims of its dogma. Hierarchy means a stratification of role and status. Within the group there must be a sense that some roles and some values are more important than others. Even something as basic as “chair” and “member” denote differences of status and authority. Through hierarchy, some members are given the ability to exercise the authority of the group, to enforce its dogma and determine how it performs its function.

The quality of solidarity connotes a sense of “we,” of community in a real sense. There is a notion that the group acts in unity with others in the group, that they are performing the group’s function together, apart from the rest of society. Status means that members are devoted to the group for reasons beyond any merely material interest. Membership in the community matters. Nisbet uses the term “honor” interchangeably with status to communicate this property and to indicate the internal value membership holds to the individual. Last is a sense of superiority. Members of the group believe that their group is valuable in comparison to other groups. Their group is superior “measured in terms of what one’s own community does and is and what the rest of the world does not do and isn’t.” This need not connote a bigoted sort of superiority, but merely a sense among members that what they are doing with their group is more valuable than what they could do with other groups.

These qualities of community make an organization psychologically and morally significant in the lives of its members. Members are devoted to

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3 The following discussion of the seven characteristics of a community is drawn from Robert A. Nisbet, The Degradation of the Academic Dogma (Basic Books, 1971), 43-5.

4 Nisbet, Academic Dogma, 45.
the group because they believe the function and dogma of the group are important. But they can only be salient in the lives of the members if the group’s hierarchy tasked with exercising authority within the group may enforce the dogma and ensure the performance of its function. Only in this way can members of the group have the sense of solidarity and status that comes from being part of a group whose dogma they believe true and function they believe valuable. Out of this, members get a sense of superiority, a sense that they are involved in something valuable and important.

Nisbet juxtaposes two types of community, the political community and the plural community. The first is predicated upon the ideal of sovereignty as an absolute relationship between the individual citizen and the state. To put this in terms of Nisbet’s community: at the center of the conception of the political community is a dogma, the sovereignty of political power, and function, to preserve the supremacy of political power. These trump the dogmas and functions of all other groups, which only exist to the extent the sovereign conceives their existence. The authority of the political community is absolute over all other authorities, the hierarchy between sovereign and citizen and the consequent equality of all citizens under the unitary political power is clear and unquestioned, trumping all other relationships in society. Citizens are to find their status and solidarity with each other as fellow citizens of the state and sense of superiority only from their membership in the political community. Nisbet writes, “The idea of sovereignty, which clearly implies but one absolute power lying in the social order, with all relationships, all individuals indeed ultimately subject to it, has been the characteristic approach to the political community...since the time of Cleisthenes.” Derived from the political theory of Plato and the historical development of ancient Athens, the political community emphasizes centralized direction from a single source of absolute power. All organizations, whether based on neighborhood, religion, or kinship must ultimately be under the direction of the central authority. The political community need not be totalitarian or authoritarian. It need not be a dictatorship. The political community can be democratic and permit a wide swath of freedom. But the important point is that in the final analysis the absolute power of the political state is unquestioned and the highest value in the polity. Other associations may exist, but they exist only to the extent that they bolster the central political power.

Nisbet relates the political community closely to the military community. The military community is defined by discipline toward a single purpose: war. The reason the military community has such a unified aim is the threat of a foreign enemy which requires that all loyalty between individuals be given to the military commander. Individualism and centralization are essential to the military community because the military commander must centralize authority in order to carry out the important goal of repelling a foreign threat and, concurrently, individuals must give their full and undivided loyalty to the central military power. Centralization of power and individualization of social aggregates go hand-in-hand in the military community.

The centralization of power for the purposes of war is closely linked historically and sociologically to the emergence of the political state. Nisbet writes, “The state is indeed hardly more than the institutionalization of the war-making apparatus; its earliest function everywhere is exclusively military; its earliest rulers, generals and war lords.” In the political community the cohesion and loyalty of the combat unit is transferred to the political state. Political sovereignty is little more than the centralized and absolute authority of the military commander relocated to a political figure or institution. This is true in modern China, where the military leader Mao Zedong transitioned to political leader of the People’s Republic of China. Upon taking command, his regime militarized the country, suppressing traditional associations and centers of loyalty. The relation between these two communities continues even today where the political state enjoys the most power when it is at war. State initiated social and political reforms are easier to implement in times of war and in times of crisis than during times of peace. There remains long after the founding of the political state a strong affinity in structure and purpose between the military community and the political community.

6 Nisbet, Social Philosophers, 14.
7 Nisbet, Social Philosophers, 93.
8 Nisbet, Social Philosophers, 89-90.
In contrast to the political community, the plural community is based upon a plurality of associations, of governing authorities, that make claims upon individuals, only one of which is the political power. The legitimacy of the claims of the political state must be balanced against those of religion, kinship, neighborhood, and whatever other interests may lay claim to persons’ minds and hearts. Derived in its beginning from the political thought of Aristotle, who believed that the polis was inherently plural, with rich and poor, artisans and farmers with all their diverse interests and needs living together in the same political community. What distinguishes these two types of community is a vision of the good. The political community places the good in the ideal of a unified community under the single authority of the political state and the plural community places the good in a plurality of associational authorities, which may not be hierarchically ranked by a central power. There will be wide diversity among the populace in how these goods are ranked. Some will place their religious affiliation above that of their neighborhood, and vice versa. The political authority must compete with various social authorities for the ultimate allegiance of individuals. There is a sense that the political community is one authority among many, even if it is the first among equals.

Nisbet describes six features of the plural community. The first tenet is plurality. This is basic, but it means that in contrast to the focus upon unity in the political community, a plural political society recognizes a plurality of communities within it, and sees itself as a sort of “community of communities.” There is a diversity of goods that may be pursued by different communities in different ways and therefore the plural conception of community necessitates a policy of freedom from the central power so that citizens may pursue those goods in community with others. Nisbet writes, “The nature of man cannot be confined by any single value, expressed by any single kind of relationship. The potential diversity of the human mind must be matched by a diversity of types of community within the social order, each as autonomous as possible within its own sphere of function, each with a measure of authority of its own based upon its unique function and no more disposed to transgress upon the function and authority of any other community than to have its own function and authority invaded.”9 Plurality of this sort implies plurality of membership in various associations and organizations as well as diversity of belief. “Such diversity is no more indeed than the cultural accompaniment of social plurality.”10

The second quality of the plural community is autonomy, by which Nisbet means “functional autonomy.”11 Groups must be given the proper scope of autonomy so as to fulfill their function. “[E]ach group or community within the larger community should be endowed with the greatest possible autonomy consistent with performance of its function and with performance by other groups and communities of the functions embedded in them by tradition or plan.”12 These groups include religious organizations, families, labor unions, corporations, educational institutions, and the like. Each association, each organization has a specific function. It must be allowed the autonomy, the self-government necessary to fulfill that function. This means freedom from other associations as well as freedom from political power.

The third element of the plural community is decentralization. Authority ought to be dispersed throughout various social authorities, such as communities and associations, such that as little as possible is centralized in one place, whether that be one governing body or one person. The function of an organization cannot be performed when the power to perform it is centralized within the political state. Essential to decentralization is the “delegation of authority to the associations and communities composing the social order.”13

The fourth quality is hierarchy. By hierarchy, Nisbet means the “system of stratification of function and responsibility” within the organization. This is seen as not only inevitable, but good in the plural community. Just as the plural community is perceived as a “community of communities,” so the relationship between its citizens is perceived as a ‘chain of being,’ which rises from the smallest possible communal link at the bottom to the most important—in the cultural as well as political sense—at the top.”14 The vertical ranking of roles is just as important as the horizontal in terms of social structure.

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9 Nisbet, Social Philosophers, 388.
10 Nisbet, Social Philosophers, 388.
11 Nisbet, Twilight, 215.
12 Nisbet, Social Philosophers, 388.
13 Nisbet, Social Philosophers, 389.
14 Nisbet, Social Philosophers, 389.
The fifth quality is *tradition*, by which Nisbet means “the customary and the habitual,” the passing down of practices central to the association. Tradition need not denote long usage, although it often does. Rather tradition means a set of practices that “emerg[e] from community, from consensus, from a stable base of social interaction that makes law in the formal and prescriptive sense unnecessary.”

Groups have their own way of doing things that grow out of their members’ cooperative actions that perform the group’s function. These traditions characterize the group in an important sense, giving continuity and familiarity of habit to group action.

The sixth and final quality is *localism*. By this, Nisbet means that the plural community emphasizes “the family, neighborhood, small community, and local association.”

Localism implies a sense of place and, in a manner similar to decentralization, a bias for solving problems at the point closest to the people who are most affected by the problem. Localism is also the biggest antidote to the social scourge of alienation, the rootlessness of many citizens of the modern nation-state.

These six qualities characterize a plural community, one that recognizes a plethora of values among its populace and a variety of groups pursuing different functions free of government interference. We can think about these qualities of the plural community as a set of standards against which political policy can be measured to determine how well the other five standards are met.

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17 A problem that concerned Nisbet for much of his career. The opening chapter to *Quest* is about the individual adrift, insecure, in modern society. Similarly, on the opening pages of *The Social Philosophers*, Nisbet writes, “There is the fear of the social void, of alienation, of estrangement from others, even from one’s own self, of loss of identity, of great open spaces of impersonality and rejection.” See *Quest*, 1-18; *Social Philosophers*, 1-2.

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First, how much functional autonomy does the Chinese state allow NGOs?

Second, is the Chinese national state decentralizing its functions? This can be understood both as decentralizing functions *downward* from national to local governments (also a feature of localism) as well as decentralizing *outward* from political to social authorities, allowing social organizations to fulfill functions normally considered under the aegis of the state.

Third, to what extent does the Chinese government intervene in the internal hierarchy of the associations? Are they permitted an internal hierarchy of values and roles free of government interference?

Fourth, to what extent does the Chinese government permit *tradition* among associations and civil society at large? Recall that tradition need not be long standing. It means simply that the informal practices that grow out of the interaction between members of the group are free to develop as they will.

Fifth, to what extent does a policy of *localism* guide government policy?

Last, all these questions considered, to what extent is *plurality* a recognized fact of Chinese political policy?

In a definite sense, China is the epitome of Nisbet’s political community, rule by a centralized power that restricts and suppresses groups. However, recent reforms in China’s policy toward both domestic and international Non-Governmental Organizations indicates that there is a growing pluralism to the structure of China’s political community. The proliferation of civil society groups suggests that the regime is intentionally loosening its grip upon civil society. Furthermore, these civil society groups have the ability to affect political policy. This suggests a pluralization of the Chinese political community.

**Chinese Civil Society: A Western Concept?**
In some important ways this mode of analysis can be seen as an imposition of Western ideas of civil society upon Chinese political and social order. Linguistic difficulties are tied to conceptual difficulties. For example, consider the term “civil society.” In the west, we have a definite sense what we mean by that term. We mean the social realm of interaction where persons form their pre-political habits and predilections that in turn affect their role as democratic citizens. The state generally does not interfere even though the manner in which its citizens are molded by civil society in great part determines the character of the regime. But does that term have a corollary in China? One scholar writes, “Chinese has no precisely equivalent term for civil society. The English term has been rendered into several distinctive Chinese translations, and it is an open question as to which best conveys the meaning of ‘civil society.’”

To what extent do Western scholars tend to impose their own understanding of civil society upon China, distorting the nature of what is found there?

The first time Chinese scholars translated civil society it was as “gongmin shehui,” in a challenge to the CCP’s definition of citizen, which it associated with “qunzhong,” meaning “masses,” a particularly politicized term. “Gongmin” means literally “public people,” a society (“shehui”) of people who are public minded and who take responsibility for the public good. “Qunzhong” is associated with political mass movements, especially those which supported the CCP. The “masses” were what Mao’s CCP called the core groups of its followers. This term for “mass society” ought to be distinguished from “civil society,” but it is unclear in what way. The term gongmin shehui does imply a social dimension distinct from the political dimension and one that might even be arrayed against it. Certainly, that was the context of the origin of this term in China in the late 1980s. It further has democratic connotations, implying self-rule. Another term for civil society is “shimin,” which means “townspeople.” Historically, this term has had little political connotation, but nonetheless distinguishes its subject from the political state. “Minjian” means “popular,” and has a stronger historical connotation of contrast between civil society and the state. The term “Minjian shehui” was popular in Taiwan because it implied an anti-state stance.

This discussion demonstrates some philological difficulties that may conceal deeper conceptual issues in discussing civil society in the Chinese context. Taiwanese activists chose one rendering of “civil society” for their particular political purposes. Mainland Chinese chose another to reflect different political goals, namely, a more interactive relationship between civil society and the state. This concern is especially relevant to this inquiry as I am explicitly taking the standards of pluralism from a prominent twentieth century Western scholar that he developed out of the thought of Western social philosophers and using them to analyze the NGO sector of an Eastern country. This does not mean that this inquiry is ill-fated, but it does mean that it behooves us to recognize the philological difficulty at the outset.

When I use the term “civil society,” I am using it in reference to Nisbet’s concept of the plural community, so I mean civil society as the realm of non-political interaction between individuals where associations are formed in formal and informal ways for a variety of purposes. Those purposes need not be anti-state. A great deal of the time they will be distinctly non-political, working alongside the state for the same social purposes or working without the state’s knowledge for solutions to social problems the political powers may not have yet identified. There is an important sense in which the associations of civil society are more fundamental than the state. They are prior to the state philosophically if not historically in the Chinese context because they are both closer to the people, shaping their lives, but also constitutive of the people. They are the very social instantiations of persons’ needs and wants in concrete social reality. The important point is not that the associations in question are anti-state, but that they are non-state and that they are plural—there are many of them, not one. They have their own goals—functions and dogma—that are distinct in origin from the state, but need not be anti-state. Social problems are often a concern of both political power and social authorities. Those goals do not need to be anti-state, but they do need to be freely formed so that they organically grow in response to the needs of persons created by the particular historical circumstances. It is perfectly fine from the pluralist perspective if the goals and

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19 Ma, Non-Governmental Organizations, 19.
20 Ma, Non-Governmental Organizations, 20.
21 Ma, Non-Governmental Organizations, 21.
work of these associations correspond to state policy prerogatives. The important point is that the group in question is able to pursue them.

This struggle to define civil society in China is reflected in the relatively recent definition of non-governmental organizations by the Chinese government. Scholar Qiusha Ma writes, “On the whole, NGOs are very new to China and are gradually becoming an independent sector that is distinctive from the state and businesses, and they are non-governmental in their unique roles and organizational operations.” In fact, social organizations were only defined for the first time in 1998 as “non-profit organizations that are voluntarily founded by Chinese citizens for their common will and operated according to their charters.” Also, they “cannot engage in for-profit activities.” I am especially interested in how the Chinese state treats these organizations today. While our standards drawn from Nisbet’s pluralism imply separation between the political and the social, it need not connotate confrontation nor does it denote democratization. The political state’s motivation in pursuing social pluralism is less important than is the fact of the state’s recognition of social pluralism in the form of legal allowances for group formation around a diversity of goals. It all depends whether the political power, democratic or authoritarian, values plurality in society and whether it permits a great degree of functional autonomy, decentralization, hierarchy, tradition, and localism. Two further points should be made. Democratic societies may be politically monist in ways that a particular authoritarian society is more socially pluralist.

The History of NGOs in China

Scholar Guosheng Deng divides the history of post-revolutionary China’s nonprofit sector into four phases. During the first phase, from 1949-66, a number of academic, arts and public organizations are founded. However, during this period many are either co-opted by the government or formed at its behest. The second phase, from 1966-78, is the Cultural Revolution and there is a crackdown on associations and the activities of existing organizations largely cease and new organizations are not permitted to form. The third phase, from 1978-95, is China’s Reform Era. The liberalization of economic organizations of various sorts parallels the liberalization of the market and various industrial and economic associations emerge in response to China’s policies of economic liberalization. Since 1978, the Chinese economy has averaged 9.9% growth. But, economic growth has produced social dislocations and environmental costs that the country has struggled to contain. It became apparent to the Chinese government that certain NGOs may have a competitive advantage in helping to alleviate social ills resulting from a growing economy and an urbanization of the population (from 17.9% in 1978 to 53.7% in 2015). This is probably why the most active nonprofit organizations are those focused on education, social service, and health. Since certain NGOs were well situated to deal with those issues, the government has encouraged their formation. Also, as the Chinese people have become wealthier due to economic liberalization, they have the resources to start and to support NGOs in a way that they didn’t before. The crucial point is that the Chinese state has learned that the benefits of the sort of pluralism it allowed in the economic realm may have a corollary in the more strictly social realm. This is an important point. The Chinese political power is recognizing that a variety of social authorities acting in a social realm distinct from the state may have a salutary effect upon Chinese society at large and they may accomplish social objectives more efficiently and more effectively than the national Chinese state, just as businesses and economic association did in the economic realm.

In 1989, China established the Division of Social Organizations under the Ministry of Civil Affairs to register these new groups. An official recognition of social organizations indicates a movement toward social pluralism, but it happened at an unfortunate time internationally. That year the world witnessed a number of protests and revolutions against communist governments, especially in China.
Eastern Europe, at the same time that China had the Tiananmen Square protests. The government clamped down on student groups and other organizations out of fear that freedom for organizations would fuel anti-state activity with outcomes similar to those in Eastern Europe. State registration requirements were inspired by this development. While China had learned that Non-Governmental Organizations can have a salutary effect on society, solving social and environmental problems, they can also “mobilize citizens to challenge the state,” as they had done throughout the world in the late 1980s and 1990s.  

While China allowed a certain social liberalization in the NGO realm, it was certainly not interested in democratization or a liberalization of the political realm, which would entail challenge to the CCP’s monopoly on political power.

During the fourth phase, from 1995 to the present, NGOs have proliferated, playing new social and economic roles. In 1995, Beijing hosted the United Nations’ World Conference on Women and it introduced a number of International NGOs to China. The first NGOs founded after 1995 were primarily focused on the environment, women’s rights, and poverty. Most of these did not register and were largely left alone by the national and local governments, as long as they did not oppose government policy. However, many of them were founded by government officials or by persons appointed by the government. While they were technically non-government organizations, they operated as de facto government departments because they were founded by persons closely tied to the government and the purposes of these organizations were closely tied to government prerogatives. After 2000, the NGO sector continued to expand with various umbrella groups forming, such as the China Association for NGO Cooperation, the Institute for Environment and Development, and the NGO Information Center, which helped to train non-profit employees for grassroots organizations. Funding for these groups comes mostly from international organizations. Various NGO’s have split apart to specialize in various areas and NGO’s with the same issue focus have begun to network informally through conferences and mass media (i.e. environmental groups, public health NGOs work with other public health NGOs, and so on).

These developments are salutary but they must be set against the treatment of other associations, especially those that are religious. Among the most notorious incidents involving religious groups is the treatment of the Falun Gong, a group with spiritual practices featuring Qi Gong and other ancient eastern meditation practices. The Chinese government was alarmed when the group gained a large following in the 1990s even among CCP members. Members of the Falun Gong held a public demonstration in front of a government compound that triggered a crackdown on all unauthorized religious groups. The Falun Gong was accused of being a cult and secret social organization, an alarming threat to the CCP because that is precisely what the CCP had been prior to its rise to power in the late 1940s. In 2002, thirty-three Catholic bishops and priests were arrested or disappeared and at least 1200 churches were destroyed in one province alone. It is thought that many members of the Falun Gong remain in reeducation campus.

The recent treatment of the Uighurs, a religious and ethnic minority in the province of Xinjiang in western China, is even more egregious. The Xinjiang region is considered semi-autonomous, but it was essentially annexed by China in 1949. The Uighurs there are ethnic and religious minorities, distinct from the dominant Han Chinese and religiously Muslim, dissenting from both the atheism enforced by the CCP and traditional Chinese Confucianism. Current estimates are that at least one in ten members of this group is in a government internment camp. They are taken from their homes without trial and sometimes without their family even being informed. Relatives simply stop receiving calls and text messages.

The government claimed that these compounds are “vocational camps” aimed at assimilating the minority population into the dominant linguistic and cultural practices of China for the sake of their economic well-being. The

32 Ma, Non-Governmental Organizations, 70-1.  
34 Ivan Watson and Ben Westcott, “Uyghur refugee tells of death and fear inside China's Xinjiang

31 Deng, “China’s Non-Profit Sector,” 5.
government documents describe the camps as “transformation through education” centers.

Evidence indicates that the camps are effectively prison camps aimed at reeducation of the Uighars to force assimilation into the dominant culture through practices such as forced chanting and singing, mandatory language classes, forced written confessions, and the like. Persons are reported to the government if they pray, refrain from alcohol, grow a beard, or encourage others to do the same because of the association of these practices with devotion to Islamic teaching.

On the purpose of the camps, one person said, “They want to erase, erase, erase your identity and our culture and to melt them into Han Chinese.” Reports emerging indicate that the internment program “holds Muslims and forces them to renounce religious piety and pledge loyalty to the party.” One woman was forced to say in front of a camera, “I am a citizen of China and I love China. I will never do anything to harm China. China has raised me. The police never interrogated me or tortured me, or even detained me.” One former inmate described the goal of the camp saying, “In the end, all the officials had one key point. The greatness of the Chinese Communist Party, the backwardness of Uighur

cultural and the advanced nature of Chinese culture.” Another claimed that the government forced the inmates “to do manual labour as well as attend re-education classes where they were forced to praise the government’s policies and express their gratitude for the re-training.” The government has admitted that the camps are non-voluntary, but it has taken to calling the inmates “non-criminal terrorists.”

Analysts have identified as many as twenty-eight of these camps.

Chinese policy does allow very limited Islamic practice, but such practices are decidedly individualist. The New York Times describes the policy this way, “The officials did not ban Islam but dictated very narrow limits for how it should be practiced, including a prohibition against praying at home if there were friends or guests present.” The home is where religion is predominantly preserved and passed on to the next generation. The government recognizes that families are often an alternative location of loyalty to the state and a great inculcator of religious belief. Muslim families are broken apart and members taken to the camps. The government sends party representatives to live in the homes of Muslim Chinese to become part of their family and to monitor their activities and lifestyles, to discover what books are in their homes, whether they pray, and whether they drink alcohol. Scholar Rian Thum commented that “[w]hether consciously or unconsciously, authorities in Xinjiang have recognized the power of families as an alternative source of authority. The kind of extreme party loyalty they want has no room for that.” The goal of these policies is to prevent Uighars from practicing Islam in community with others. The government is explicitly limiting the ability of Muslim communities and families to be communities in Nisbet’s sense by restricting their ability to carry out their function: enabling Muslims to worship together and raise members of the next generation as Muslim.

Both ethnicity and religion are evocative sources of traditional allegiance that are apart from

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36 Buckley, “Detaining Muslims.”

37 Buckley, “Detaining Muslims.”

38 Doman, et al.


and sometimes higher than political ends. The primary relationship of the political community is between individual and state, and the political community will look with suspicion upon any relationship that directs individual loyalty away from the state. This is reflected in the manner in which the Chinese government treats the practice of Islam and non-Han Chinese cultural minorities, especially as these traditions are carried out in the context of families.

The Plural Community in Contemporary China

It is clear in the scholarship that China’s motivation for allowing its recent expansion of freedom for organizations is better governance, not democratization and not liberal pluralism. China scholar Jessica Teets writes, there is a “growing convergence on a new model of state-society relationship in China that emphasizes the simultaneous rise of a relatively autonomous civil society with differentiated state control depending on whether groups are perceived to advance state goals or challenge state authority.” Former vice-president of the Communist Party of China (CPC) Central Committee Party School Li Junru argued that the softening of state policy toward groups is a process of “consultative democracy,” a fundamental democratization of China even if it does not involve elections. However, Teets argues that this new system of collaboration between civil society groups and the Chinese government is better described as “Consultative Authoritarianism.” China remains undemocratic, especially at the national level, but it has nonetheless established a significant consultative role for groups, granting them an extraordinary amount of autonomy by historical Chinese standards. The “model of consultative authoritarianism, whereby state officials advocate a simultaneous expansion of autonomous civil society and mechanisms of state control to attain a balance between the governance benefits of civil society and the potential dangers of social mobilization for further political liberalization.” For our purposes, I am not concerned with democratization nor with the government’s motivation for instituting pluralist policies, but with the presence of Nisbet’s elements of pluralism. So while consultative authoritarianism is not democratic, it may still be pluralist. To understand the extent to which pluralism is part of the contemporary political and social landscape, we can formulate Nisbet’s principles of pluralism as a series of six questions regarding the treatment of civil society and the associations operating there. Since “plurality” is the guiding principle of the plural community, I will consider that principle last as a summary of how the other aspects of pluralism are satisfied.

First, how much functional autonomy does the Chinese state allow NGOs?

The question here is to what extent can NGOs pursue their function, the central purpose of their group, free of state intrusion. The answer is mixed. Different groups have different rights. A helpful way to understand the treatment of NGOs in contemporary China is to step back and to consider them according to two models: top-down and bottom-up. The major difference between top-down and bottom-up organizations is their relation to the state. Top-down organizations are non-governmental but the impetus for their formation is the state, being founded either by the state or by state appointed officials to accomplish objectives explicitly identified by the state. Ma identifies four categories of top-down organizations:

- These include NGOs that existed before the Cultural Revolution but “carry out political or economic functions assigned by the government.”
- Civic organizations that the government founded “to fulfill certain managerial functions or economic needs in the new market economy.”
- Professional associations founded by “professionals who work within the state system.”

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48 Stromseth et al, Governance Puzzle, 7.
49 Teets, Under Authoritarianism, 144.
51 Teets, Under Authoritarianism, 40.

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52 Teets, Under Authoritarianism, 207. This corresponds to what Zhang and Guo call society-corporatism discussed above.
53 This bifurcation is drawn from chapter five of Ma, Non-Governmental Organizations, 136-66.
54 Ma, Non-Governmental Organizations, 145.
Bottom-up associations were established by mostly private enterprises “to protect and represent their interests.” This includes chambers of commerce and similar associations. Ma examines the development of these types of associations in the city of Wenzhou in Zhejiang Province in Southeastern China. There are four characteristics of bottom-up associations:

1. They were initiated by private entrepreneurs;
2. They are self-sufficient, self-managed, and self-recruiting, with no funding from either the Wenzhou government or county governments;
3. Memberships are voluntary, and private companies join because they consider these chambers of commerce to work for their interests;
4. Private entrepreneurs, often the most outstanding ones, make up the executive boards and the boards of trustees, and they are directly elected by the members of their respective organizations.

Ma’s description of these organizations indicate the level of functional autonomy they have. They are founded at the impetus of the people who need them and they are left relatively alone to carry out their function, which is not state-directed, but serves the interest of their members. In Nisbet’s terms, they are autonomous as to their function.

In Wenzhou, between 1980 and 1996 private businesses increased by more than a hundredfold. With this explosion in private enterprises, non-profit organizations began to emerge. 114 chambers of commerce were established in the city between 1992 and 2004 to protect the interests of the relatively new businesses in the area. These organizations were founded by businesses, many of which were small family-owned enterprises that needed protection in the form of copyrights, patents, and the like.

Ma’s analysis does not cover recent developments where social organizations have been granted a certain level of autonomy in a manner similar to these economic associations. The principles that applied to the sort of economic non-profits, such as chambers of commerce, have been expanded to include social organizations. In 2010, fifty percent of registered nonprofit organizations were educational, compared to one percent each for professional organizations, agricultural organizations, and business service organizations. Cultural organizations constituted four percent and community service organizations almost fifteen percent. This indicates that there has been rapid growth in the number of strictly social organizations compared to those that serve a business related purpose.

Against the functional autonomy granted a variety of economic and social non-profit associations, religious organizations are significantly more constrained. Since 1978, religious organizations have been permitted as long as they must register with the State Bureau of Religious Affairs. This is even true of some faith-based organizations that are not specifically places of worship. So what would be considered in the West a “social organization” with a charitable mission is considered under the Chinese system a religious organization with separate categorization and more limited rights. This creates a curious state of affairs where some faith-based organizations that generally engage in social services and educational activities that implicate their faith, such as the YMCA, register with the Ministry of Civil Affairs. But when it does so, it must only take part in strictly charitable work associated with social services. The organization is explicitly forbidden from taking part in education efforts, despite the fact that education is explicitly part of its mission and plays a routine role in its activities in other countries. Educational activities would insert the YMCA’s religious mission into its work, inculcating religious values in the people the organization educates. But this, in turn, hampers their charitable efforts. For example, while the YMCA runs an elderly home in Shanghai, it isn’t allowed to engage in any educational activity. To put this in Nisbet’s terms, education is an essential function of the YMCA, but it is not autonomous as to that function which is explicitly tied to its dogma, but is explicitly restricted from engaging in the activity at the center of the

55 Ma, *Non-Governmental Organizations*, 146.
56 Ma, *Non-Governmental Organizations*, 159.
57 Ma, *Non-Governmental Organizations*, 159.
58 Ma, *Non-Governmental Organizations*, 159.

Unfortunately, it does not appear that the same level of development of active bottom-up organizations has happened to the same extent elsewhere in China. But Wenzhou gives a helpful model for what is possible

60 Huang and Cai, “A Major Breakthrough,” 56.
organization’s mission. Furthermore, even though its charitable work is exemplary and quite successful, the YMCA explicitly avoids bringing attention to it because it may be linked to the organization’s religious mission and invite additional state interference with the group’s activities.61

The most egregious violation of functional autonomy is the treatment of the Falun Gong and the Uighurs discussed above. These groups are not allowed the requisite self-government necessary to carry out their function. Each has certain spiritual beliefs that form the core of its dogma and a function in facilitating proper spiritual practice of their respective adherents. Neither is allowed to perform that function free of harassment. Respect for the principle of functional autonomy would require that associations in these communities be left free enough to organize worship and practice as they see fit.

Decentralization

Two types of decentralization are relevant here. The first type of decentralization is a transference of functions from the political state to a variety of social authorities. The second is decentralization from central political power to local political authorities. Part of this is the decentralization of oversight of local political authorities from the central political authority to local citizens. The latter is related to the tenet of localism but we will discuss it here because it also demonstrates a decentralization of a function to non-governmental actors, namely, the transference of oversight from the national state to concerned citizens associating with each other around shared concerns with the exercise of local government power.

As a general example of the transference of functions from political powers to a variety of social authorities is the decline of the danwei. The danwei are the “work units” that governed the lives of Chinese citizens from cradle to grave, serving as economic units, social welfare organizations, and educational institutions all wrapped into one. The danwei were intended to replace the traditional social networks of neighborhoods, villages, and kinship groups and to provide all the social and economic services previously received from these groups.62 They were not only the places Chinese citizens worked, but also the places they received services one would have previously received from a variety of sources. One would work at a factory, get healthcare from a hospital or family, education for one’s children from a school, and social support from one’s neighbors and kin, all run by the danwei. It was even within the danwei that marriages were celebrated and funerals arranged. They instantiated a centralization of functions from various social authorities to the political state.

But taking on all of those services proved to be prohibitively expensive. Following the reforms of 1978, in the third phase of the nonprofit sector, danwei began to shed their social responsibilities. When the state-affiliated organizations no longer provided social services, other for-profit and non-profit organizations stepped into the void. The Chinese government has permitted the decentralization of these services to take place. We can see this as an outward decentralization of important social functions from a political institution to non-state institutions, just as the economic reforms decentralized economic functions from state-run enterprises to non-state economic entities. The result is that normal people who continue to work for the danwei are not as beholden to it since it is no longer the end-all-be-all of their economic, social, and political existence. These various functions have been pluralized, transferred from one political source to a variety of social sources.

An example of the second type of decentralization is the relatively recent Chinese policies of transparency and participation, which decentralized oversight and decision-making by allowing Chinese citizens to monitor their own local governments and to have a say in policy-making, at least at a local level. Transparency is defined as “the provision of information on government activities, processes, and regulations” and “public participation” is defined as the ability to engage in “the formation of government policies.”63 These policy changes have significantly altered China’s treatment of NGO’s with profound implications for the free association of individuals.

Transparency reforms really got underway with the Open Government Information reforms in 2008 mandating publication of some government documents.64 These reforms were aimed at reducing

61 Ma, Non-Governmental Organizations, 71.
62 Ma, Non-Governmental Organizations, 59.
63 Stromseth et al, Governance Puzzle, 5
64 Stromseth et al, Governance Puzzle, 26.
local corruption, especially the misuse of public funds by local government officials. Government transparency requirements mean that citizens can monitor local government expenses and report malfeasance or protest unwise government decisions. 65 For example, in 2010 the state-owned metro corporation in Guangzhou province announced that it would renovate all of the stations on one of its metro lines. A sixteen-year-old who frequently took the metro questioned the necessity of the renovations and tweeted his concerns. He then protested at the entry to the metro with a petition for metro users to sign. Many did sign and join his protest. Because of the attention his efforts brought to this particular instance of government spending, suspicion of government waste increased. Eventually, the plans for the metro renovations were revised to address only the necessary repairs. 66

Another example occurred when a local government proposed a renovation of the lighting along the Pearl River. An NGO employee started a campaign called “Brain is Brighter,” arguing that the money allocated to the lighting renovation would be better spent on education rather than street lights. He shaved his head and posted a picture online in protest. Eighty-seven people also posted pictures of themselves with shaved heads and thousands others commented and approved of his campaign. The movement was censored, but the protest worked. The government revised its plan, agreeing to spend a sixth as much on the project. 67

The sort of action taken by these citizens is effective because they had access to government information and there was a civil society that could support the dissenting citizen. Other citizens who shared the concerns of the dissenting person were willing to join the cause as well and local media was willing to cover the protest to bring attention to the particular concerns. While in these cases the associating took place online and they were not the result of the actions of a registered social organization, they nonetheless demonstrate instances of free association for a particular cause against current government policy. 68 While I am not only concerned with protecting dissent from government action, the protection of that practice demonstrates an outward decentralization of authority in an important sense. Persons are allowed to associate and to pass judgement on the wisdom of particular acts of government spending.

Several caveats apply to this point. First, the central government has not allowed the same level of transparency at the national level as it has at the local level, even though it may yield similar benefits in terms of better governance. If anything, it appears that what transparency there is at the national level is diminishing. 69 Second, the motivation of the Chinese government for expanding transparency and participation is not for openness or pluralism as such. It pursues these policies for the same reason that democratic regimes do: participation helps the government both make better choices by providing it with better information and it enhances the government’s legitimacy. People are more likely to comply with government policy when they believe that it has been implemented with their participation. 70 This is not a problem for our thesis: decentralization need not be to the detriment of the government to be valuable to pluralism. But it is worth pointing out. Third, these transparency initiatives have not led to more press freedom. The Chinese government worries that unbridled openness will inspire popular anti-government movements. It is one thing to help to clean up local government corruption and another to permit the same level of scrutiny against the regime itself. Nonetheless, requiring open access to local government records is a step in the right direction. It means that the Chinese government is experimenting with liberalizing citizen access to government information, decentralizing the oversight of local governments to the people affected. So far, the results have been beneficial to citizens and to the state. Citizens have engaged and caught local officials in mismanagement and even criminal activity. They did so because they were able to associate (even if just online) around their shared concerns.

65 Stromseth et al, Governance Puzzle, 30, 34.
67 Stromseth et al, Governance Puzzle, 128-30.
69 Stromseth et al, Governance Puzzle, 57. For example, the national government was more transparent about its 2008 budget than its 2012 budget.
70 Stromseth et al, Governance Puzzle, 10-11.
Third, to what extent does the Chinese government intervene in the internal hierarchy of the associations? Are they permitted an internal hierarchy of values and roles free of state interference?

The ability to recruit and to decide one’s own leaders is essential to the autonomy of associations in the western world. But China retains an ability to have a say in some of these internal decisions. On the one hand this is an infringement on the internal autonomy of the organization and its ability to make decisions based upon its own hierarchy of personnel and values. On the other, the people appointed often have expertise in the subject area. Some even maneuvered their careers to be appointed to the position because of their interest in the NGO’s subject area.

When the Chinese government intervenes in the internal hierarchy of an organization it is generally in response to what looks like corruption or malfeasance on the part of members of the organization. For example, in 2011 an employee of the China Red Cross Association had posted on social media indicating she had high income and a wealthy lifestyle, but she should not have had extensive personal resources given her position in a non-profit. China Red Cross is the largest humanitarian organization in China. While it is an NGO, it has the full support of the government and even special legal rights. As it turned out, the young woman’s wealth had nothing to do with her position at the China Red Cross, but it brought scrutiny to the non-profit world and confirmed in the minds of some that nonprofits were suspect because they operated apart from the state.

Despite a more general openness to International Non-Governmental Organizations (INGOs), in 2016 the registration of INGOs was moved to the Ministry of Public Security and away from the Ministry of Civil Affairs. These groups are now subject to greater scrutiny, which includes interrogation of any employees of these groups at any time. Some observers have noted that this looks like the return of Maoist policies, certainly it reflects a violation of the pluralist principle of hierarchy.

Fourth, to what extent does the Chinese government permit tradition among associations and civil society at large?

Tradition need not be long-standing. Here, it just means the internal norms of the group, often informal, that emerges from the interaction between the group and its members and between the groups and members of the civil society at large. While many NGOs may organize around issue areas with internal practices consistent with their work, traditions that emerge from dissenting communities seem especially suspect. Tradition is an important way in which communities create a sense of belonging for their members. It appears that the internal practices of many NGOs are left alone, with notable exceptions.

While we discussed the YMCA in terms of functional autonomy, it is also an interference with tradition to not permit the YMCA to engage in its own traditional practice of education in carrying out its activities. More egregiously, forbidding various religious practices, such as growing a beard, praying, and refraining from consuming alcohol, and other traditions associated with Islam is a violation of this principle. It is clear that the traditions attached to religious groups are suspect because of their role integrating persons into the religious community. The state will intervene if it believes the traditions will unduly direct the loyalty of the individual to a group at the expense of its loyalty to the state. Additionally, some of the activities in the Uighur internment campus such as forced chanting and singing are essentially attempts to impose traditions consistent with the dominant political values upon the dissenting community as a replacement for the practices traditionally associated with Islam.

Fifth, to what extent does a policy of localism guide the central government?

A policy of localism does seem to be guiding some Chinese policies in regards to NGOs. As I discussed in the section on decentralization, the national government has allowed a great deal of local control over how to interact with NGOs. In Wenzhou there has been a salutary expansion of freely formed “bottom-up” NGOs. While this

73 Stromseth et al, Governance Puzzle, 22.
confirmed the principle of functional autonomy, it also demonstrated the localist principle. The national government permitted the local governments to allow freedom to form organizations as they saw fit. While no province or city went as far as Wenzhou, the fact that it was allowed to do so demonstrates the presence of the principle of localism is national Chinese policy. Also, the practice of allowing citizens to participate in governance by monitoring local government expenditures is another part of localism. Provinces have a remarkable amount of autonomy in how they permit transparency and participation. Guangzhou province has pursued a much more aggressive policy than some other places. In 2002, it first implemented the Open Government Information initiative and passed a “right to know” statute, something similar to the American Freedom of Information Act (FOIA), the first of its kind in China. It also implemented evaluation measures to ensure that its transparency laws are being followed and it provides clear guidelines for how citizens may request information about government activities and expenditures.  

However, even this localist interpretation must be balanced against a holistic account of the motivations and actions of the government in making this policy. Historically, corruption in China has led eventually to revolt and the fall of the ruling dynasty. However, even this localist interpretation permits the pluralism that corresponds with its own power. It will allow citizen access to local government activity because it helps the central regime keep tabs on local officials and it keeps people loyal to the central regime. This cuts against Nisbet’s idea of localism in a certain sense. It is of course a good thing that corruption at the local level has been reduced and no doubt many of the local officials who were pilfering from government coffers were not doing right by the local people. But allowing citizens to monitor local governments frees the central government of that burden and it creates a sort of alliance between the central government and the individual citizens against their local governments. I think the policy is clearly a good one, but the structure the policy encourages is an affinity between individuals and the national state, rather than between individuals and the local government. This is a subtle but distinct reflection of the political community in a certain sense. Local citizens are made to feel a part of the larger whole through this effort at the same time that the central state is better able to keep tabs on local governments. All that aside, this policy is also a good way for local citizens to work with each other to hold their own local government accountable and therefore, on the whole, reflects a localist perspective as well as a decentralist one. It allows citizens to associate, even in small ways, against government action.

In addition to a violation of functional autonomy, decentralization, and tradition, the treatment of the Uighurs is also a violation of the localist principle. The Uighurs are largely confined to the Xinjiang province. The Chinese political community is primarily interested in intervening in the internal affairs of an ethnic and religious minority group that dissents quite strongly from the dominant cultural and religious strains of the country. The national government’s refusal to permit them local autonomy despite the fact that the province is actually a protectorate and not part of China proper indicates a refusal to honor localism. The logic of the localist principle is that if a local culture is more distinct from the dominant culture it ought to have even more autonomy, more of an ability to be itself precisely because it is different from the overarching regime. Erkin Emet, secretary of the World Uighur Congress and a language professor at Ankara University, described the purpose of the camps, “China’s way of assimilating [the Uighurs] is to make them forget their original culture and then replace it with Chinese culture... [so it becomes] one culture, one nation.”  

Last, all these questions considered, to what extent is plurality a recognized fact of Chinese political policy?

The rise of the NGO sector in China is not the result of a policy of pluralism or the right of association per se, but a result of the needs and wants of the political regime. Even certain reforms that appear to provide limitations on the political community are arguably still done to stabilize—and not to pluralize—the political community. This is not disconcerting in the sense that a lot of pluralism in the West is defended on the grounds that it provides better democratic governance. The administrative state is growing in China, but it looks in some ways like the New Deal of the 1930s. The government does a lot, but through transparency efforts similar to the

75 Stromseth et al, Governance Puzzle, 121-2.
76 Stromseth et al, Governance Puzzle, 33.
77 Doman et al. Emit believes that thirteen members of his family are currently interned in these camps.
78 Ma, Non-Governmental Organizations, 47.
A variety of associations carrying out diverse functions. For example, philanthropic activity is increasing. Since some NGOs are able to seek support from individuals, the activity of asking and receiving has encouraged private donations such that donating and participating in civil society groups is becoming the norm. This is remarkable considering that with the rise of the danwei system “The ethics of charity and mutual help also withered, and a wealth of social capital was lost as the old groups faded.” This is reversing. Many Chinese citizens engage in microphilanthropy, the use of social media for targeted charitable purposes such as free lunches for students in impoverished locales. The popularity and success of these sorts of programs indicate that the Chinese people tend to think in terms of social engagement to solve social problems through free associations in various ways. Some microphilanthropy efforts are unorganized and merely require donations from individuals and others are highly organized and constitute collective-action or even a social movement. This is the pluralist mindset at work. The Chinese people are becoming more accustomed to thinking in terms of civil society, in terms of formal and informal social organizations. Whether they would use the term or not, they think of their society as a plural society, one where individuals are members of the state, but also members of various social groups which can make claims upon their time and resources.

One extraordinary fact is that civil society groups have largely been responsible for the change in policy of the government toward NGOs. They have worked to be collaborative rather than combative, working with the Chinese government to demonstrate that they have the same goals as the state. This has largely happened at the local level where civil society groups have been able to work with local officials to alter public policy. As one scholar writes, “The fact that civil society groups have begun to fundamentally alter relationships with local officials and influence public policy in a system that legally does not allow for public participation in less than two decades is a remarkable finding.” Two points are worth emphasizing here. First is that it is true that groups must have a basic coherence with state policies. Sometimes this is simply framing the issue. LGBTQ groups, for example, must frame their own work not as a human rights issue, but as a public health issue. But, second, is that these organizations are acting outside of state impetus. They are the ones taking the initiative with the state responding accordingly. This reflects an underlying pluralism to Chinese society and a tolerance for pluralism by the Chinese government. It may have more limits to the tolerance of goals that do not correspond with government policy than what we generally find in the west, but it demonstrates a fundamental pluralism in an important sense.

This means that the Chinese people are becoming accustomed to thinking in plural terms, of a variety of associations carrying out diverse

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70 Stromseth et al, Governance Puzzle, 40-1.
71 Teets, Under Authoritarianism, 158.
81 Li Feng and Xiaoguang Kang, “Microphilanthropy Transforming China,” in Huang et al, China’s Nonprofit Sector, 179.
82 Stromseth et al, Governance Puzzle, 298.
84 Stromseth et al, Governance Puzzle, 21.
85 Peifing Liu, “NonProfit Legislation in China,” in Huang et al, China’s Nonprofit Sector, 84.
scholar writes, “Currently, the government does not fully comprehend the level of societal pluralism or its impact on civil society in China.” But it also suggests that there is a vibrant social pluralism in the Chinese state even beyond what we are able to study and evaluate.

**Conclusion**

Many models of civil society envision the interaction between groups and the state as being all or nothing. Either a group is a state agency or it is completely autonomous from state power. But the Chinese model could be described as more of a continuum.88 The Chinese government is largely interested in protecting its own power while admitting that civil society groups may have a comparative advantage to government agencies. “This is the fundamental balance of government decision making in Beijing—encouraging the ability of civil society groups to solve social problems without sacrificing political control, often discussed as ‘social stability.’”89 What emerges from this discussion is that the condition of Nisbet’s plurality in contemporary China is complex, with government actions taking contradictory movement both toward pluralism and away from it toward a more rigid political community. In each of the five principles discussed above we could readily identify both increasing respect for pluralism as well as reasons for concern.

Much of the Chinese government’s opposition to civil society groups is due to its concern that such groups will undermine the regime’s power. The story of China’s recent liberalization of policy toward autonomous organizations is the story of the Chinese state learning from other regimes around the world as well as the success of pluralization at a local level. Some local governments have benefited greatly from working with NGOs. The model of civil society seen in the United States is open where most civil society groups work either with the administrative state or towards the same goals, such as mitigating poverty.90 Still, the Chinese government exercises significant control over associations. “Chinese social organizations are neither wholly autonomous nor completely bound by state control. They are granted enough space to meet their own, often narrowly defined goals, but not so much autonomy that they might challenge state interests. Social organizations work to further their own goals; at the same time, they often work to assist the government in implementing its policies.”92 It isn’t a zero sum game. There are elements of both the plural community and the political community in the Chinese treatment of social organizations and associations.

The slogan in 1978 was “controlling better by controlling less.”93 A similar statement could be made about the liberalizing of the social realm through the permissiveness of group formation. The same salutary results of freedom for economic associations that accompanied economic liberalization may be true of social pluralization. The decentralization of the market encouraged the growth of groups to address certain problems created by economic liberalization. A similar decentralization of functions and pluralization of society will allow for an associational response to address problems in the social market.

89 Teets, *Under Authoritarianism*, 98.