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### Post-Totalitarian Politics

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# POST-TOTALITARIAN POLITICS

Guyora Binder\*

THE END OF HISTORY AND THE LAST MAN. By *Francis Fukuyama*. New York: The Free Press. 1992. Pp. xxiii, 418. \$24.95.

CIVIL SOCIETY AND POLITICAL THEORY. By *Jean L. Cohen* and *Andrew Arato*. Cambridge: MIT Press. 1992. Pp. xxi, 771. \$45.

## I. THE CURTAIN PARTS

Forty years a firmament dividing East and West, Left and Right, State and Market, the iron curtain one day crumbled like so much meringue. With it crumbled many realities and realisms that once seemed hard as gunmetal: the determination of international relations by the interests and relative strength of military elites, the total control of totalitarian states over their societies, the pseudosophisticated view that, in Francis Fukuyama's phrase, "nation-states [are] like billiard balls, whose internal contents, hidden by opaque shells, are irrelevant in predicting their behavior" (p. 248). The shells cracked, the curtain parted, and the intractable reality that force rules politics was, at least for the moment, exposed as mere appearance.

In a chapter of his *Phenomenology* entitled "Force and Understanding: Appearance and the Supersensible World,"<sup>1</sup> Hegel evokes the vertigo we experience at such moments, when the forces that rule our world are revealed to be contingent interpretive constructs. We need simplifying generalizations to order our world, and living in an ordered world means treating its regularities as real, its particularity as ephemeral, even illusory. But when regularity itself proves ephemeral, we are reminded that our world was always capable of infinitely varied interpretation. At such moments theories abound, interpretive constructs sell for a quarter on every corner, while contingency and change seem like the only constants. Our world inverts and the rainbow seems realer than the laws of optics.<sup>2</sup>

The experience of this inversion, in which the world suddenly seems much realer than our ideas of it, paradoxically propels us toward idealism. At the moment when the proud mind — its expectations dramatically defeated — might be expected to yield in humility

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1. G.W.F. HEGEL, *THE PHENOMENOLOGY OF MIND* 179-213 (J.B. Baillie trans., rev. 2d ed., George Allen & Unwin Ltd. 1949) (1807).

2. See *id.* at 197-210.

to events, it is distracted by its own reflection. "How wrong I was," it marvels, "but how powerful. For the past forty years, it is I who have ruled the world — not national interest, not nuclear balance, not military force, not totalitarian bureaucracy — but I who imagined each of these forces."

Just when events clamor for our attention, we become most conscious of the operation of our minds in structuring and interpreting the world of events. The really momentous changes, the real discontinuities, it then seems, are in the realm of thought rather than events. And so our gaze focuses through events, at ourselves.<sup>3</sup>

Th[e] curtain . . . hanging before the inner world is withdrawn, and we have here the inner being gazing into the inner realm . . . [W]hat we have here is Self-consciousness. It is manifest that behind the so-called curtain, which is to hide the inner world, there is nothing to be seen unless we ourselves go behind there, as much in order that we may thereby see, as that there may be something behind there which can be seen.<sup>4</sup>

So today as we gaze in wonder, eastward or westward as geography dictates, at the spectacle exposed by the withdrawal of the iron curtain, we are searching for ourselves. We now see that the curtain was not only the boundary of our world, but the contour of our own minds, a boundary of our own creation, defining the conceivable and delimiting the visible. In a world undivided between communism and capitalism, how will we define ourselves? Where will our new boundaries be?

As if to confirm Hegel's derivation of idealist metaphysics from the experience of contingency, many observers have turned to Hegel for aid in accounting for communism's unforeseen collapse and in imagining the world to follow. This review essay examines two such Hegelian responses to the events of 1989, *The End of History and the Last Man* by Francis Fukuyama<sup>5</sup> and *Civil Society and Political Theory* by Jean Cohen<sup>6</sup> and Andrew Arato.<sup>7</sup>

Fukuyama reads the collapse of communism as the millenarian triumph of liberalism and the end of meaningful struggle over values in international politics. Following Marx' famous claim to have inverted

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3. See *id.* at 202.

Thus, then, with the process of explaining, we see the ebb and flow of change, which was formerly characteristic of the sphere of appearance, and lay outside the inner world, finding its way into the region of the supersensible itself. Our consciousness, however, has passed from the inner being as an object over to understanding on the other side, and finds the changing process there.

*Id.*

4. *Id.* at 212-13.

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6. Associate Professor of Political Theory at Columbia University.

7. Andrew Arato is Professor of Sociology at the New School for Social Research.

the Hegelian dialectic,<sup>8</sup> Fukuyama sets out to show that to discredit Marx' philosophy of history is to vindicate Hegel's. Fukuyama's portrayal of Hegel as the prophet of liberalism is notable for the interest it has excited rather than for the agreement it commands or deserves.

Part II of this essay explains this notoriety by reference to the convergence of two developments: a gradual shift in the public function of the American intellectual from engineer to ideologue, coinciding with the ideological void suddenly created across the American political spectrum by the mutually entailed collapse of communism and obsolescence of cold war liberalism. Both developments have opened America to the influence of European political thought, which maintains a lively engagement with Hegel.

Unfortunately, by caricaturing Hegel as little more than a cold-war liberal, Fukuyama deprives him of much of his ability to fill the ideological void left in the cold war's wake. Part III shows that the liberal values Fukuyama finds implicit in Hegel lose much of their content when removed from the context of the cold war. Fukuyama claims that an innate human drive for recognition, discovered by Hegel, has dictated the triumph of capitalism and liberal democracy over communism. Yet Hegel warned that the demand for recognition could not be met merely by freeing markets or limiting states. Recognition required not only private property, but also social insurance sustaining a network of civil association. Moreover, Hegel warned, such a strategy of insulating civil society from market competition could not be universalized without interfering with the functioning of the market. Hence, Hegelian political theory suggests that recognition demands more than cold war liberalism and occasions intractable conflict. Rather than initiating the ideological innovation we will need to confront these challenges, *The End of History* denies its necessity.

*Civil Society and Political Theory*, though destined by its density and bulk to be much less read, is significantly more responsive to the normative restlessness of Fukuyama's readers. In this volume, Arato and Cohen identify the collapse of communism with the revolt of what Hegel called "civil society" against the state. Part IV explains this revival of Hegel's concept by reference to a common frustration experienced by reform movements on both sides of the iron curtain. Both movements reluctantly concluded that seizing the state was both impracticable and undesirable. Yet the emergence in Eastern Europe's command-economy states of a private sector necessarily distinct from the market refuted the cold war's premise that state and market were exhaustive categories. To the West's dispirited reformers, Cohen and Arato bring welcome tidings: the East's "civil society" strategy proves that reform is possible outside the state.

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8. 1 KARL MARX, *CAPITAL* 25 (Frederick Engels ed. & Samuel Moore & Edward Aveling trans., Charles H. Kerr & Company 1915) (1867).

If Fukuyama pronounces the death of bipolarity in international politics, then Cohen and Arato pronounce its death in domestic politics. In so doing they reassert the relevance of Hegel's emphasis on association as the context for the recognition denied not only by state control, but also by consumer "choice." Part V explicates Cohen and Arato's strategy for reviving civil society, but reasserts Hegel's warning that the simultaneous sustenance of markets and civil society for some may depend upon an international context in which these institutions are not available to all.

Hence, a weakness common to both books is that their appropriation of Hegel is partial and Panglossian. Hegel was not only an idealist who thought the world was made by thought; he was also a realist who knew that social contradiction, for all the artificiality of its origins, could not be wished away. Hegel, like Adam Smith before him and Marx after him, viewed markets as at once liberatory and destructive. He saw a welfare state, mediated by a rich network of civil association, as an ingenious defense against the destructive tendencies of markets, but one that could not be universalized. The nation-state could deflect, but not eliminate, the corrosive force of a global market. In turning to Hegel to explicate the overthrow of utopian Marxism, we risk forgetting how much of Marx — and how little of his utopianism — was anticipated by Hegel.

## II. NOT THE END OF IDEOLOGY

In 1989 and 1990 enough popular periodicals to fill a long footnote reported that an obscure official at the State Department had announced the end of history in the pages of a little known neoconservative journal.<sup>9</sup> What made this event newsworthy? Surely not the end

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9. Francis Fukuyama, *The End of History?*, THE NATL. INTEREST, Summer 1989, at 3; Allan D. Bloom et al. *Responses to Fukuyama*, THE NATL. INTEREST, Summer 1989, at 19; George F. Will, *History's Last Word?*, NEWSWEEK, Aug. 14, 1989, at 66; Richard Bernstein, *Judging 'Post-History,' The Theory to End All Theories*, N.Y. TIMES, Aug. 27, 1989, § 4, at 5; Timothy Fuller et al., *More Responses to Fukuyama*, THE NATL. INTEREST, Fall 1989, at 93; Michael Novak, *Boredom, Virtue, and Democratic Capitalism*, COMMENTARY, Sept. 1989, at 34; John Elson, *Has History Come to an End?*, TIME, Sept. 4, 1989, at 57; Strobe Talbott, *The Beginning of Nonsense*, TIME, Sept. 11, 1989, at 39; George Walden, *Is the End of History Really Nigh?*, DAILY TELEGRAPH, Sept. 14, 1989, at 20; Charles Krauthammer, . . . *Is History History?*, WASH. POST, Sept. 15, 1989, at A31; *Time to Call History a Day?*, THE ECONOMIST, Sept. 16, 1989, at 48; Bob Sipchen, *D.C. Abuzz Over Theory That the End is Near*, L.A. TIMES, Sept. 21, 1989, § V, at 1; Samuel P. Huntington, *Repent! The End Is Not Near*, WASH. POST, Sept. 24, 1989, at B3; M.G. Lord, *What to Do When History Ends: Try Shopping*, NEWSDAY, Sept. 24, 1989, at 9; Henry Allen, *The End. Or Is It?: Francis Fukuyama and The Schism Over His Ism*, WASH. POST, Sept. 27, 1989, at C1; Rae Corelli, *Stopping Time: Scholars Debate Whether History Has Ended*, MACLEAN'S, Oct. 2, 1989, at 56; Les Firestein, *The Trouble Was, History Kept Piling Up*, CHI. TRIB., Oct. 2, 1989, § 1, at 15; Jonathan Alter, *The Intellectual Hula Hoop: Why the hyping of 'The End of History' says more about Washington than the theory itself*, NEWSWEEK, Oct. 9, 1989, at 39; James Atlas, *What Is Fukuyama Saying? And to Whom Is He Saying It?*, N.Y. TIMES, Oct. 22, 1989, § 6, at 38, 40; John Gray, *The End of History — or of Liberalism?*, NATL. REV., Oct. 27, 1989, at 33; Stephen Budiansky, *The End is Not Near*, U.S. NEWS & WORLD REP., Oct. 30, 1989, at 26; Paul Blumberg, *Is this the End?*, NEWSDAY, Nov. 11,

of the cold war which, though newsworthy enough, was, with the fall of the Berlin Wall, plain for all to see. No, the man-bites-dog aspect of the story was the official's celebration of the collapse of communism in the millenarian language that Marxists might have used to celebrate its triumph. While most Americans read the Eastern European rejection of communism as the ultimate refutation of Marx, Francis Fukuyama saw it as the ultimate vindication of the thinker best known to Americans as Marx' mentor, Hegel.

Although the oddity lay partly in Fukuyama's reclaiming Hegel for capitalism, there was a deeper anomaly: For what, at its moment of triumph, did capitalism need Hegel? Thus, the real oddity lay in Fukuyama's effort to invoke capitalism in support of a tradition of philosophical history more commonly associated with capitalism's critique.

To appreciate fully this anomaly we have to go back a generation. To the young scholars who peopled American universities in the wake of World War II, the twin enemies of fascism and communism embodied the dangers of ideology. Not the self-conscious aesthetes described by Fitzgerald a generation earlier,<sup>10</sup> nor the restless beats Richard Fariña would later evoke,<sup>11</sup> these were veterans, hardheaded practical men, used to getting with the program, getting the job done, taking orders, and taking charge.<sup>12</sup> They took up posts as disciplined academics rather than intellectuals, convinced that theory merely excused inaction, that ideology exploited inexperience, and that in a democracy dissent implied desertion and endorsed dictatorship. They loved conformity but scorned dogma. The global triumph of liberal democracy, they confidently assumed, would mean the end of ideology.<sup>13</sup>

Symptomatic of ideology to the postwar American scholar was the Europeans' anthropomorphizing of *History* as the vehicle of impersonal social forces engaged in dialectical struggle on behalf of transcendent ideals. Thus the related enterprises of social theory and philosophy of history were ideological enterprises, rationalizing the current sacrifice of individual liberty as necessary to the ultimate reali-

1989, at 1; *End of History*, S.F. CHRON., Nov. 13, 1989, at A18; Richard Bernstein, *The End of History*, *Explained for the Second Time*, N.Y. TIMES, Dec. 10, 1989, § 4, at 6; Francis Fukuyama, *Beyond the End of History: Still the Best Theory for the Bizarre Events of '89*, WASH. POST, Dec. 10, 1989, at C1; Bob Sipchen, *Last Words on 'End of History,' Death of Novels*, L.A. TIMES, Dec. 28, 1989, § E, at 1; Francis Fukuyama, *A Reply to My Critics*, THE NATL. INTEREST, Winter 1989-1990, at 21; Stephen Bronner, *Reflections on the End of History*, NEW POL., Summer 1990, at 111, 112; Alan M. Olson, *Glasnost and Enlightenment*, PHIL. TODAY, Summer 1990, at 99; Kenneth W. Thompson, *History as End Point or New Beginnings*, MEDITERRANEAN Q., Winter 1990, at 111.

10. F. SCOTT FITZGERALD, *THIS SIDE OF PARADISE* (1920).

11. RICHARD FARIÑA, *BEEN DOWN SO LONG IT LOOKS LIKE UP TO ME* (1966).

12. GARRY WILLS, *NIXON AGONISTES: THE CRISIS OF THE SELF-MADE MAN* 507-22 (1970).

13. DANIEL BELL, *THE END OF IDEOLOGY* (1960).

zation of a wholly chimerical collective freedom.<sup>14</sup> According to these self-assured officer-professors, ideology was a peculiarly archaic and European kind of softheadedness, a sort of old-world corruption from which hardboiled Americans were blessedly free.<sup>15</sup> For the consensus historians Louis Hartz,<sup>16</sup> Daniel Boorstin,<sup>17</sup> and Arthur Schlesinger,<sup>18</sup> America had always been a Lockean state of nature — naturally abundant, naturally egalitarian, naturally individualistic, and innately liberal without need of philosophical reflection or political debate. To theorize in the arcane rhetoric of critical philosophy was suspiciously un-American. An honest man had no need for such finery — plain folks are plain spoken.

Against this background, the most natural reading of the Berlin Wall's fall was that the end of communism represented the long-awaited end of ideology and, by extension, the bankrupt enterprise of philosophical history. A global acceptance of liberalism, capitalism, and democracy was imminent. No longer would politics engage matters of principle; no longer would leaders consign their opponents to the ashheap of history. No longer deluded by ideology, everyone would now proceed with the prosaic business of refining techniques for implementing the new consensus.

The discrediting of ideology is not only a predictable American reading of communism's collapse, it is very nearly Fukuyama's reading. Hence the puzzle: Why announce the end of ideology as the triumph of a particular ideology, liberal-democratic-capitalism? Why describe the abandonment of teleological history as the telos toward which all history tended? And why did this repackaging of the conventional wisdom in the gaudy wrapper of idealist philosophy stir such excitement? What, in short, does Fukuyama's *succès-de-scandale* reveal about the post-cold war predicament of political thought?

I think we can account for Fukuyama's rhetoric and its reception in light of nine developments. Three involve changes in the American political-intellectual milieu since the original articulation of the end-of-ideology thesis. The remaining six are consequences of the collapse of communism itself.

First and foremost, the events of 1989 came twenty years too late to rescue the end-of-ideology thesis. Postwar universities had staked an enormous claim to public investment as inculcators of consensus

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14. Three expressions of this point of view are LEONARD KRIEGER, *THE GERMAN IDEA OF FREEDOM* (1957); BERNARD YACK, *THE LONGING FOR TOTAL REVOLUTION: PHILOSOPHIC SOURCES OF SOCIAL DISCONTENT FROM ROUSSEAU TO MARX AND NIETZSCHE* (1986); and Isaiah Berlin, *Two Concepts of Liberty*, in *FOUR ESSAYS ON LIBERTY* 118 (1969). Berlin, though not American, was widely read and admired here.

15. WILLS, *supra* note 12, at 507-17.

16. LOUIS HARTZ, *THE LIBERAL TRADITION IN AMERICA* (1955).

17. DANIEL J. BOORSTIN, *THE GENIUS OF AMERICAN POLITICS* (1953).

18. ARTHUR M. SCHLESINGER, JR., *THE VITAL CENTER* (1949).

and servants of an uncontroversial national interest. Science, languages, area studies, even psychology — all came to be seen as defense research. But the very policy relevance of such research brought its objectivity into question once consensus over the goals of public policy broke down. As the Vietnam War eroded that consensus, draft-age students increasingly saw universities not as public servants, but merely as government agents.<sup>19</sup> The ensuing political confrontation incubated challenges to the objectivity of every academic discipline. Suddenly the pragmatism of Kuhn<sup>20</sup> and Wittgenstein<sup>21</sup> could be invoked to undermine the epistemological claims of positivist social science and the social authority of natural science. Consensus history faced challenges on two fronts: intellectual historians advanced a new interpretation of antebellum American political thought as ideological, even paranoid,<sup>22</sup> while social historians attempted to recover the suppressed visions of history's losers.<sup>23</sup>

If even academic discourse is treated as inherently ideological, a fortiori there can be no such thing as nonideological politics. Hence, in an academic milieu where reference to "truth" has become an index of naiveté, any attempted revival of the end-of-ideology thesis — no matter how well confirmed by events — would have been dead on arrival.

Second, while epistemological relativism drew most of its support from the academic left, even advocates of free enterprise have long since dispensed with the claim to be nonideological. Indeed, we can understand the neoconservative movement as an imitative response to the New Left's success in "infiltrating" popular culture. The intellectual circles in which Fukuyama travels — his book jacket sports blurbs from Charles Krauthammer, George Will, Irving Kristol, and Alan Bloom — share the academic left's view of intellectual activity as ideological advocacy. When a neoconservative describes markets as the expression of an ideology, he means to dignify them as intellectually serious and principled.

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19. This identification of universities with the machinery of war might seem paradoxical given their function for draft-age students as safe havens from military service. Yet student deferments themselves reflected the view that the university was performing a vital defense function. Moreover, as universities sought to control disruptive protest by expelling students — thereby depriving them of student deferments — they became extensions of the Selective Service System.

20. THOMAS S. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* (1962).

21. LUDWIG WITTGENSTEIN, *PHILOSOPHICAL INVESTIGATIONS* (G.E.M. Anscombe trans., 1953).

22. See BERNARD BAILYN, *THE IDEOLOGICAL ORIGINS OF THE AMERICAN REVOLUTION* (1967); DAVID B. DAVIS, *THE SLAVE POWER CONSPIRACY AND THE PARANOID STYLE* (1969); RICHARD HOFSTADTER, *THE PARANOID STYLE IN AMERICAN POLITICS AND OTHER ESSAYS* (1966); GORDON S. WOOD, *THE CREATION OF THE AMERICAN REPUBLIC, 1776-1787* (1969).

23. See PETER A. NOVICK, *THAT NOBLE DREAM: THE "OBJECTIVITY QUESTION" AND THE AMERICAN HISTORICAL PROFESSION 440-45* (1988). A key example is EUGENE D. GENESE, ROLL, JORDAN, ROLL (1974).



Third, if the "end-of-ideology thesis" is less academically respectable than it once was, philosophical history has become more respectable, so long as *philosophy* is now understood as ethics rather than metaphysics. The stone first rippling the stagnant pond of postwar American philosophy was Rawls' rejuvenation of Kantian Ethics.<sup>24</sup> In one stroke, Rawls refuted the commonplace that liberalism had obsoleted normative philosophy and restored the relevance of the Kantian critical tradition to English-speaking philosophy. Waves rippled from this point of impact in three directions. First, in normative political theory, neo-Kantian liberalism begat its neo-Hegelian communitarian critique.<sup>25</sup> Second, even as neo-Kantian ethics were being criticized, they were also being applied in the sphere of international relations.<sup>26</sup> Third, in descriptive political science, Kant's prediction that the proliferation of liberal democracy would yield "perpetual peace"<sup>27</sup> got a second look.<sup>28</sup> Perhaps it was only a matter of time before this neo-Kantian philosophy of history would provoke a neo-Hegelian response. In this sense, Fukuyama's pop-Hegelian self-help

24. See IMMANUEL KANT, *GROUNDWORK OF THE METAPHYSIC OF MORALS* (H. J. Paton trans., Harper & Row, Publishers Inc., 3d ed. 1964) (1785); JOHN RAWLS, *A THEORY OF JUSTICE* (1971). Rawls' resuscitation of Kantian ethics affected legal scholarship most visibly in the figure of Ronald Dworkin, but also through such diverse figures as Frank Michelman, Bruce Ackerman, George Fletcher, and others. See BRUCE A. ACKERMAN, *PRIVATE PROPERTY AND THE CONSTITUTION* (1977); BRUCE A. ACKERMAN, *SOCIAL JUSTICE IN THE LIBERAL STATE* (1980); RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* (1977); George P. Fletcher, *Fairness and Utility in Tort Theory*, 85 HARV. L. REV. 537 (1972); Frank I. Michelman, *Property, Utility, and Fairness: Comments on the Ethical Foundations of "Just Compensation" Law*, 80 HARV. L. REV. 1165 (1967).

25. ALASDAIR MACINTYRE, *AFTER VIRTUE: A STUDY IN MORAL THEORY* (2d ed. 1984); MICHAEL J. SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* (1982); ROBERTO M. UNGER, *KNOWLEDGE AND POLITICS* (1975); MICHAEL WALZER, *SPHERES OF JUSTICE: A DEFENSE OF PLURALISM AND EQUALITY* (1983); CHARLES TAYLOR, *Atomism*, in 2 *PHILOSOPHY AND THE HUMAN SCIENCES* 185 (1985); Michael Walzer, *Philosophy and Democracy*, 9 *POL. THEORY* 379 (1981). Liberals have met this critique largely by incorporation rather than refutation. See WILL KYMLICKA, *LIBERALISM, COMMUNITY, AND CULTURE* (1989); Stephen A. Gardbaum, *Law, Politics, and the Claims of Community*, 90 *MICH. L. REV.* 685 (1992); John Rawls, *Justice as Fairness: Political Not Metaphysical*, 14 *PHIL. & PUB. AFF.* 223 (1985).

26. CHARLES R. BEITZ, *POLITICAL THEORY AND INTERNATIONAL RELATIONS* (1979); ALLEN BUCHANAN, *SECESSION: THE MORALITY OF POLITICAL DIVORCE FROM FORT SUMTER TO LITHUANIA AND QUEBEC* (1991); KYMLICKA, *supra* note 25; HENRY SHUE, *BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY* (1980); FERNANDO R. TESÓN, *HUMANITARIAN INTERVENTION: AN INQUIRY INTO LAW AND MORALITY* (1988).

27. IMMANUEL KANT, *Perpetual Peace*, in *KANT ON HISTORY* 85 (Lewis W. Beck et al. ed. & trans., Bobbs-Merrill 1963) (1795).

28. See Michael W. Doyle, *Kant, Liberal Legacies, and Foreign Affairs*, 12 *PHIL. & PUB. AFF.* 205, 323 (1983); Michael W. Doyle, *Liberalism and World Politics*, 80 *AM. POL. SCI. REV.* 1151 (1986); Thomas M. Franck, *The Emerging Right to Democratic Governance*, 86 *AM. J. INTL. L.* 46 (1992); David Garnham, *War-Proneness, War-Weariness and Regime Type: 1916-1980*, 23 *J. PEACE RES.* 279 (1986); R. J. Rummel, *Libertarianism and International Violence*, 27 *J. Conf. Resol.* 27 (1983); R. J. Rummel, *On Vincent's View of Freedom and International Conflict*, 31 *INTL. STUD. Q.* 113 (1987); Fernando R. Tesón, *The Kantian Theory of International Law*, 92 *COLUM. L. REV.* 53 (1992).

manual for statesmen is the frothy crest of a more substantial swell that has been building for twenty years.

In sum, postwar America has experienced a broad and gradual transformation in the cultural function of the intellectual, from technical problem-solver to normative theory-builder. Yet the American intellectual's difficulty is that she finds herself, in Pierre Schlag's charming phrase, "normative and nowhere to go,"<sup>29</sup> advocating causes without rebels.

The Eastern European revolution has suddenly alleviated this deficit of disorder. The lifting of the iron curtain seems like an invitation for philosophers to don costumes and step onto the stage of world history.

First, the sudden and simultaneous collapse of the Soviet Union and its satellites calls for global explanation by reference to large-scale social forces. We expect an aggregation of individual decisions to lead to incremental change. Steady erosion might precipitate sudden change in a single country and, perhaps, influence the long-run survival prospects of regimes in other countries. But the simultaneous collapse of nine regimes, the emergence by secession of twenty new states, the reunification of the state that started two world wars, the unification of Europe, the defusing of the nuclear confrontation that has terrorized the world for four decades, the democratization of dozens of states in Latin America and Asia — these are unquestionably world-historical events demanding systematic explanation.<sup>30</sup>

Second, the exorcism of the communist bogeyman has cleared European critical philosophy from suspicion of being an enemy agent, and Fukuyama's neoconservative pop-Hegel signifies continental philosophy's new innocuousness. No longer will every invocation of Hegel and Kant be read as the coded plans for Soviet invasion. Now it is possible to read European critical philosophy for its own sake and judge it on its own terms.

Third, for those seeking to understand Germany and the "Central European"<sup>31</sup> world emerging in its lengthening shadow, engagement with the continental tradition is not just possible, but necessary. Eastern European intellectuals conceived their struggle to liberate *civil society* from the state in such Hegelian terms not only because that

29. Pierre Schlag, *Normative and Nowhere to Go*, 43 STAN. L. REV. 167 (1990).

30. Fukuyama appropriately quotes Hegel's comments on the French Revolution: We stand at the gates of an important epoch, a time of ferment, when spirit moves forward in a leap, transcends its previous shape and takes on a new one. All the mass of previous representations, concepts, and bonds linking our world together are dissolving and collapsing like a dream picture. A new phase of the spirit is preparing itself. Philosophy especially has to welcome its appearance and acknowledge it . . . .  
P. 39 (quoting G.W.F. Hegel, Lecture (Sept. 18, 1806)).

31. See generally Timothy G. Ash, *Does Central Europe Exist?*, N.Y. REV. BOOKS, Oct. 9, 1986, at 45.

language suited their surroundings, but also because it was *part* of their surroundings. It represented a way of reestablishing membership in, and enlisting the support of, a European intellectual community. The fragmentation of the Eastern bloc was as integrative as it was disintegrative, reflecting an impulse to join Europe economically, politically, and culturally.<sup>32</sup> Fukuyama's millenarian message resonates with the American mythology of manifest destiny; but his continental idiom hints the end of the American century.

Fourth, the lifting of the iron curtain has enabled unprecedented intellectual exchange between East and West, which will ultimately prove to be a two-way street. It is tempting to view the squadrons of American academics scrambling eastward to observe, advise, explain, and endorse the new postcommunist regimes as conquering armies, colonial governors sent to civilize the natives. But they come from a country in the grip of governmental gridlock and political cynicism, a country that has lost faith in the welfare state yet has imagined no alternative to replace it. American academics are invited to Eastern Europe to teach and prescribe, but they go in order to learn and listen. The consequence of this migration is less likely to be the defeat of European theory by American pragmatism than the Europeanization of American social thought. Cohen and Arato's Left-Hegelian account of the Eastern European revolution represents this latter trend.

Fifth, channels of influence have opened for American intellectuals in Eastern Europe largely because of the power of their East European counterparts. The revolt of civil society against the state celebrated by Cohen and Arato has delegitimized, if it has not always disempowered, bureaucratic elites. Unlike familiar revolutionary movements that mobilized armies and supplanted state authority as a result of military struggle, the anticommunist revolution engendered no counterbureaucracy. It was, to an unprecedented extent, a discursive revolution, fortified by espresso rather than Molotov cocktails, fought not with blows, but *mit Schlag*. Hence, almost in spite of themselves, East European intellectuals find themselves sucked into the power vacuum they helped create, ironically envied by their pampered, prosperous colleagues to the West.

A final reason for the post-cold war return of philosophy is its utility here, as well as there. Contrary to the faith of the officer-professors, the circumstances in which politics can be reduced to technical problem-solving are the exception rather than the rule. World War II was such a circumstance, in which a solidarity unprecedented in American history banished politics and joined Americans from Iowa City to Iwo Jima to defeat fascism. After the war, Americans struggled to sustain that nourishing solidarity by transferring their enmity

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32. For more on this theme see Guyora Binder, *The Case for Self-Determination*, 29 STAN. J. INTL. L. (forthcoming 1993).

to the red menace. The newly coined epithet "totalitarianism" eased this transition by associating together ideologies of the left and the right.<sup>33</sup> It was in this prolonged war against totalitarianism that liberalism, democracy, and capitalism took on uncontroversial and unanalyzed meaning as rallying cries.<sup>34</sup> When a society's ends are supplied by a foreign threat, ideology is unnecessary and military mobilization supplants political mobilization. With the lifting of America's long state of siege, however, social choice is no longer, to paraphrase Michael Dukakis, about means alone, but about ends. Now that we have made the world safe for liberalism, democracy, and capitalism, we must decide what these fine phrases mean. In the inevitably political work of deciding which rights will go with what forms of public participation and representation and with what kind of market, we will need a new birth — if not of ideology, at least of ideas.

Here the neoconservative Fukuyama, content to savor victory in the last war, cannot help us. And here, insist neoradicals Cohen and Arato, the cold war's real victors, the peoples of Eastern Europe, have something to teach us.

### III. NOT THE END OF POLITICS

This section explicates and critiques Fukuyama's claim that history is over. It shows that Fukuyama's faith in the necessity and perpetuity of the present stems from a commitment to a static human nature quite at odds with Hegel's historicism. Fukuyama's naturalism expresses itself in an argument that all political conflict is behind us, enabled by three rhetorical sleights of hand: (1) reading Hegel's dia-

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33. Actually, the term *totalitarianism* seems to have been introduced by its enthusiasts as an accolade. See Benito Mussolini, Speech of June 22, 1925, in 21 OPERA OMNIA 362 (1952-1963), quoted in LEONARD SCHAPIRO, *TOTALITARIANISM* 13 (1971) ("Feroce Volunta totalitaria"); Giovanni Gentile, *The Philosophical Basis of Fascism*, 6 FOREIGN AFFAIRS 290, 299 (1928) ("Totalitarian scope of [Fascism]"); Carl Schmitt, quoted in SCHAPIRO, *supra*, at 13 (national socialism calls for "totalitarian state"). The term quickly became an epithet, however. For discussion of its usage see SCHAPIRO, *supra*, at 13-15 and Benjamin R. Barber, *Conceptual Foundations of Totalitarianism*, in CARL J. FRIEDRICH ET AL., *TOTALITARIANISM IN PERSPECTIVE: THREE VIEWS* 3-20 (1969). The most influential formulations, linking Nazism and Communism, are those of Carl J. Friedrich and Hannah Arendt. See HANNAH ARENDT, *THE ORIGINS OF TOTALITARIANISM* 305-479 (1951); CARL J. FRIEDRICH, *CONSTITUTIONAL GOVERNMENT AND DEMOCRACY* 1 (1941) (parallel between Nazism and Communism); *id.* at 170-71, 260, 263, 291, 343 ("Totalitarianism" described); CARL J. FRIEDRICH & ZBIGNIEW BRZEZINSKI, *TOTALITARIAN DICTATORSHIP AND AUTOCRACY* (1956); Carl J. Friedrich, *The Evolving Theory and Practice of Totalitarian Regimes*, in *TOTALITARIANISM IN PERSPECTIVE*, *supra* at 123; Carl J. Friedrich, *The Unique Character of Totalitarian Society*, in *TOTALITARIANISM* 41 (Carl J. Friedrich ed., 1964).

34. Bruce Ackerman makes a similar point in inverted form:

Given the Marxists' aim, it made sense for them to use *capitalism* as an umbrella term. After all, they were trying to convince us that all non-Communist systems were fundamentally bad. But it is wrong for liberal revolutionaries to carry over the capitalist label into their own thinking. Rather than rejecting capitalism for communism, we must recognize that there are many capitalisms, some much better than others.

BRUCE A. ACKERMAN, *THE FUTURE OF LIBERAL REVOLUTION* 34-35 (1992).

lectic as a movement toward agreement rather than understanding, (2) *finding* agreement on values of such indeterminate scope as to encompass the entire political spectrum, and (3) confining *politics* to the debate over the organization of government rather than that of society or culture.

### A. *The End of History?*

Fukuyama shares the conventional wisdom that capitalism is the most efficient system for allocating resources and liberal democracy is the political regime that best recognizes the dignity of all citizens. What sets Fukuyama apart from the mainstream are his views that these regimes are preferred because they reflect truths of human nature; that their truth makes their acceptance as inevitable as the acceptance of scientific claims; that the mechanism by which human nature compels the acceptance of capitalism, liberalism, and democracy is the struggle for recognition first conceived by Hegel; that the widespread acceptance of liberalism, capitalism, and democracy will eliminate most international conflict; and that such peace is what Hegel meant by the *end of history*.

Fukuyama's starting point is Hegel's famous dialectic of master and slave in the *Phenomenology of Mind* (pp. 146-52). Two men encounter each other in a state of nature and engage in a struggle to the death, not over any natural good like food, but for the already cultural value of prestige, or recognition. Realizing that the death of either antagonist precludes the recognition of both, one submits to the other. Yet the victor, Hegel argued, still cannot be satisfied with recognition wrung from a helpless captive — meaningful recognition can only come from one recognized in return. The slave, on the other hand, begins the arduous process of winning recognition for himself and the master by mastering himself in the self-discipline of labor.<sup>35</sup>

History, according to Fukuyama's Hegel, is the narrative of movement from the disequilibrium of unequal recognition to the stability of equal recognition (pp. 192-98). Yet the motor of history is *thymos*, the individual desire to maximize recognition Hegel depicted in his original allegory of the fight to the death. As there is strength in numbers, the pursuit of this individual desire leads to the dominance of military elites in society. Rivalry among elites engenders the competitive mobilization of all available resources for war. This competition leads to scientific innovation, a cumulative process because the genie of knowledge cannot be stuffed back into the bottle (pp. 73-75, 82-88). The competitive mobilization of resources for war also leads to innovation in what we might call, following Foucault, "technologies of power."

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35. HEGEL, *supra* note 1, at 229-40.

Ironically, then, we owe society's movement toward the unheroic values of economic and bureaucratic rationality to a struggle for honor.

More specifically, argues Fukuyama, military competition for recognition propels society toward capitalism and democracy. Why is capitalism historically necessary? For Marx, who coined the term, *capitalism* meant free alienability of labor, commodity production for private accumulation of wealth, and sufficient accumulation of wealth to enable industrialization.<sup>36</sup> Yet Marx' assumption that industrialization required free alienability of labor and private accumulation of capital was ironically refuted by the success of communist states in developing industry.<sup>37</sup> Hence, "capitalism" proved to be a mythic being long before its triumph.

Fukuyama's *capitalism* seems to mean nothing more than allocation of resources by competitive pricing (pp. 44, 90-94). Even though markets long preceded industrialization, in Fukuyama's eyes they have become necessary only with the advent of the postindustrial information economy. The production of complex, computerized technology involving thousands of component parts requires cost calculations beyond the capacity of central planners. Thus, only in the age of Star Wars have markets demonstrated their military superiority (pp. 75-76, 92-96).

To account fully for the inevitability of markets, however, Fukuyama argues that we have to factor in the inevitable development of democracy. Industrialization, enabling the mass production of weaponry, advantages the military elite willing to widen the circle of recognition and arm the masses. Recruiting the remaining populace into the industrial-commercial economy needed to sustain modern warfare requires the inculcation of basic literacy, a common language, work discipline, future-orientation, and all the other traits we associate with modernity. With the resulting advent of a citizen army, universal education, widespread literacy, national circulation of commodities and currency, a popular press, and an informed, articulate public opinion, we find ourselves in the nation-state (pp. 267-69).

Conscripting, coordinating, and motivating the efforts of entire populations, nation-states cannot long avoid empowering and consulting them (pp. 115-17, 205). Because the nation-state relies only on the mobilized portion of its populace, it tends to condition political recognition on participation in the national culture that enables mobiliza-

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36. See GERALD A. COHEN, *KARL MARX'S THEORY OF HISTORY: A DEFENCE* 64-69, 80-83 (1978); Guyora Binder, *What's Left?*, 69 TEXAS L. REV. 1985, 2002 (1991).

37. We might add that industrialization preceded the full freeing of laborers in England by 100 years. See ROBERT J. STEINFELD, *THE INVENTION OF FREE LABOR* 115, 243 n.36 (1991) (noting that criminal enforcement of labor contracts persisted in Britain until the 1870s). Britain's first heavy industry, the Scottish coal mines, used laborers who were bound for life, bought and sold. DAVID BRION DAVIS, *THE PROBLEM OF SLAVERY IN THE AGE OF REVOLUTION, 1770-1823*, at 490 (1975) (discussion of case involving Scottish colliers).

tion. Although more inclusive than the federal state, the nation-state is not all-inclusive. By identifying with a victorious nation, every citizen can be recognized as a master. Yet, because the majoritarian mastery to which nationalists aspire is exclusive of cultural minorities, it is still, Fukuyama asserts, instable (p. 266). Only liberal democracy, by replacing the desire for superior recognition with the desire for equal recognition, enables mutual recognition among fully democratic states, thereby bringing the thymotic dialectic to an end (pp. 200-01).

What is the link between democracy and markets? With the democratization of government, argues Fukuyama, government planning becomes less efficient. Fukuyama acknowledges that authoritarian states in East Asia have implemented highly successful industrial policies (pp. 123-24). But drawing on public choice theory, Fukuyama argues that majoritarian public investment and pricing decisions are likely to be redistributive rather than wealth-maximizing (pp. 124-25). Thus, not only does military competition democratize states, it also moves democracies from centrally planned to market economies. Fukuyama points to recent worldwide trends toward democratization and privatization to confirm his intuitions.

When "liberal democracy" becomes sufficiently widespread, however, military competition ceases. By eliminating the desire for recognition as superior, Fukuyama insists, liberal democracy eliminates the *thymotic* motivation for war and so switches off the motor of history (pp. xx, 260).

Here Fukuyama offers a variation on the standard argument that popular majorities will not agree to bear the brunt of wars for the aggrandizement of military elites. Recognizing that nationalism identifies popular majorities as the military elites who stand to benefit from the exploitation of other nations, Fukuyama insists only that sufficiently liberal popular majorities will not go to war. As evidence of the pacifying effects of liberal sentiments, Fukuyama cites "a steadily decreasing tolerance for violence, death," and "casualties in the war," as well as the reduced brutality of punishment, particularly in enforcing military discipline (p. 261). He cites the claims of Michael Doyle and other neo-Kantian theorists of international relations that, as an empirical matter, no liberal democracies have ever fought each other.<sup>38</sup>

Finally, Fukuyama reasons that, with the dissipation of thymotic motives for war, material incentives will become more important. These incentives, however, are likely to discourage warfare in the future. With the development of a technology-intensive economy, Fukuyama argues, the costs of war outweigh its benefits. Military technology is prohibitively expensive, while the land and population

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38. See *supra* sources cited in note 28.

acquired by military conquest add little to the conquering nation's wealth. Even raw materials are probably acquired more cheaply by purchase than conquest (pp. 261-62). War, Fukuyama concludes, has become economically obsolete and is fast becoming thymotically superfluous as well.

In the coming posthistorical era, Fukuyama predicts, almost all states will be pacific liberal democracies, protecting private property, permitting allocation of resources by markets, albeit with varying degrees of regulation, public investment, and welfare. Roughly similar politically and economically, the democracies will remain culturally diverse (p. 233). Borrowing a page from such neoconservatives as Glazer, Moynihan,<sup>39</sup> and Sowell,<sup>40</sup> Fukuyama expects these cultural differences will determine the relative wealth of nations — those devoted to the Protestant ethic or its Confucian analogue will prosper, Fukuyama seems sure (pp. xix, 234, 237-38). But cultural competition, Fukuyama concludes, is not political conflict and so has no history.<sup>41</sup>

Let's evaluate Fukuyama's argument: Are universal capitalism, liberal democracy, and world peace inevitable? Not on the basis of Fukuyama's reasoning and not on Hegel's authority. Fukuyama's arguments for the inevitability of universal capitalism and universal peace contradict each other. He shows the obsolescence of political debate over capitalism, liberalism, and democracy only by defining each so vaguely that they are consistent with any plausible policy prescription. Hegel, by contrast, saw democracy and markets as potentially contradictory and judged this tension an intractable source of nationalist feeling and international conflict.

### B. *Not the End of Ideological Conflict*

Consider first Fukuyama's argument for the inevitability of markets, *capitalism* to you. By his account, the economic superiority of markets becomes manifest surprisingly late in the day — in states already democratic or in authoritarian states confronting military rivals with postindustrial economies. The first difficulty with his idealist analysis is its inability to explain the premature appearance of markets. A second difficulty is the inherent perversity of what amounts to a claim that the economic superiority of markets was revealed by their ability to produce Star Wars. Perverse first, because there is still no evidence Star Wars would have worked; second, because it is not clear we can afford it; and third, because we would be hard put to find a

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39. NATHAN GLAZER & DANIEL P. MOYNIHAN, *BEYOND THE MELTING POT* (2d ed. 1970).

40. THOMAS SOWELL, *RACE AND ECONOMICS* (1975).

41. P. 61 (history is competition "between socio-economic systems").



more socialized, subsidized, centrally planned, and inefficient sector of the American economy than military technology.

Even assuming that communism collapsed because of the inability of planned economies to close the microcircuitry gap, this hardly proves the historical inevitability of whatever Fukuyama means by *capitalism*. Because economic performance matters only as a means to military victory in Fukuyama's idealist analysis, the case for the *necessity* of capitalism depends upon the *accident* of postindustrial technology arriving before perpetual peace. If democratization had eliminated international military competition before the advent of the information age, democracies would have had no thymotic compulsion to develop postindustrial technology or to maximize the efficiency of their economies.

Is there perhaps some reason why the spread of democracy must await the spread of capitalism? Democracy was obviously possible before the information age, but perhaps the postindustrial technology developed by capitalist economies nevertheless facilitates democracy.<sup>42</sup> Much might be made of the role of fax machines in thwarting the Communists' attempted coup in the Soviet Union. Yet high technology has an antidemocratic aspect as well, beyond its obvious utility in surveillance. Just as industrialization fostered democracy by making the masses militarily and economically valuable, postindustrialization may render democracy redundant by confining production — and destruction — to a technocratic elite.

If expensive technology does not necessarily democratize society, perhaps the accumulation of wealth in private hands encourages democracy by creating plural centers of power. Jeane Kirkpatrick's notorious claim that *authoritarian* right-wing dictatorships were more vulnerable to democratization than *totalitarian* socialist dictatorships may be so understood.<sup>43</sup> Yet Fukuyama rightly concedes that the broad distribution of wealth is more important than its invulnerability to state control in sowing the seeds of democracy. Socialist regimes in Nicaragua and Peru prepared the ground for democracy by redistributing land,<sup>44</sup> and the first Soviet bloc states to move toward reform, Poland and Hungary, had among the most egalitarian distributions of wealth in the world.<sup>45</sup> At the same time, military regimes serving at the pleasure of private concentrations of wealth hardly constitute pluralism.

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42. See ITHIEL DE SOLA POOL, *TECHNOLOGIES OF FREEDOM* (1983).

43. Jeane Kirkpatrick, *Dictatorships and Double Standards*, COMMENTARY, Nov. 1979, at 34, 37.

44. For Peru, see p. 120.

45. The ratio of the percentage of GNP earned by the top 20% and that earned by the bottom 20% was 3.0 in Hungary and 3.6 in Poland, the lowest reported. U.N. Development Programme, *Human Development Report 1991*, tbl. 17, at 152-53, tbl. 38, at 186.

One might, taking inspiration from Hegel, argue that state control of society precludes the private association needed to form democratic will.<sup>46</sup> But then one would have to ask, as Cohen and Arato do, whether placing society at the mercy of unrestricted market forces does not equally preclude sociability (p. 24). That perpetual peace must await global democratization in no way implies that perpetual peace must await global capitalism.

Even if perpetual peace required the prior spread of capitalism, that would not imply capitalism's permanence. Once perpetual peace has been achieved, Fukuyama's *thymotic* analysis gives democracies no compelling reason to retain markets. It is not enough to argue that the genie of high technology cannot be restored to the bottle, since the motivation to deploy the genie has, *ex hypothesi*, disappeared. Fukuyama's claims for the military necessity of capitalism and the pacific destiny of democracy must ultimately collide, "necessitating" only an indeterminate future.

At this point, Fukuyama has a tempting reply available, but one that reveals the essentially circular quality of his argument. The tempting reply is that perpetual peace follows the global spread not just of democracy, but of *liberal* democracy. And liberal democracy by definition requires capitalism.

Now the latter statement is true if we accept Fukuyama's vacuous definitions of these terms. Fukuyama, as we have seen, uses capitalism to mean nothing more than the tolerance of some market pricing and some private property. Liberalism he defines as limited to the protection of property, worship, and speech (pp. 42-44). If capitalism means nothing more than the protection of some property, and liberalism protects property, than ipso facto liberal democracy must be capitalist.

But neither of these definitions suffices for Fukuyama's purposes. He is out to convince us that real debate over political values is over because the combination of capitalism, liberalism, and democracy uniquely satisfies the human craving for equal recognition. Capitalism, appearing as an economic weapon in Fukuyama's narrative of the combat for recognition, must be allocatively efficient. Liberalism, appearing as a corrective to the intolerant, chauvinist tendencies of democracy, must be antidiscriminatory. And democracy, representing recognition, must be meaningfully participatory. And these different purposes place Fukuyama's three principles at odds, guaranteeing a future of controversy and contingency.

Thus Fukuyama's bland syllogism finding *capitalism* included by definition in *liberalism* is vitiated by the ambiguity of *property*. When we associate capitalism with the protection of property, we think primarily of the right to alienate or "market" property that enables its

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46. SHLOMO AVINERI, *HEGEL'S THEORY OF THE MODERN STATE* 161-67 (1972).

efficient allocation. But when we associate liberalism with the protection of property, we may be more concerned with securing the right to acquire and enjoy property. Indeed, Hegel saw property as a medium for the expression of personality and therefore crucial to realizing the individual dignity we often associate with liberalism.<sup>47</sup> Needless to say, our ability to invest property with personality may be undermined rather than enhanced by its alienability.<sup>48</sup>

In any case, liberalism's prominent role in Fukuyama's thymotic narrative rests on its commitment to equality rather than property. And by limiting "private discrimination" and redistributing wealth, the vindication of equality may well collide with the protection of property. Fukuyama attempts to cabin this conflict by declaring liberalism committed to the elimination of only "conventional" inequality — unequal treatment — rather than "natural" inequality, or inequality of condition (pp. 290-91). Yet fully eliminating conventional sources of inequality would require eliminating inherited wealth, forbidding discretionary gifts of human capital ranging from education to affection, and defining and rewarding achievement without regard to discretionary — and hence "conventional" — consumer preferences. So even Fukuyama's equal treatment principle, unreservedly applied, threatens to eliminate private disposition and market allocation of resources. Moreover, Fukuyama admits that liberalism is also compatible with an unspecified measure of pure redistribution aimed at correcting "natural" inequality (pp. 44, 291-93).

Next, consider the potential tension between democracy and markets. Fukuyama defines *democracy* as the right to vote and participate in politics (p. 43). We typically view at least some political participation rights — voting rights paradigmatically — as subject to restraints on alienation and accumulation.<sup>49</sup> To the extent we view any entitlement as crucial to political participation — education, service in the military, ownership of productive property in the republican tradition — we may wish to place them outside the market.<sup>50</sup> Similarly, to the extent we view any allocative decision as political, we may wish to take it outside the market. To that end, some have argued that the workplace is within the domain of politics and should be managed democratically.

Finally, recall that, in Fukuyama's narrative, liberal democracy is just a means to maximize recognition. Yet Hegel emphasized the ten-

47. G.W.F. HEGEL, *THE PHILOSOPHY OF RIGHT* §§ 41-71 (T.M. Knox trans., Oxford University Press 1967) (1820).

48. Mark Kelman, *Consumption Theory, Production Theory, and Ideology in the Coase Theorem*, 52 S. CAL. L. REV. 669 (1979); Margaret J. Radin, *Property and Personhood*, 34 STAN. L. REV. 957 (1982).

49. William H. Simon, *Social-Republican Property*, 38 UCLA L. REV. 1335, 1350-56 (1991).

50. See Richard D. Parker, *The Past of Constitutional Theory — And Its Future*, 42 OHIO ST. L.J. 223 (1981).

dency of markets to frustrate recognition by eroding the communities within which recognition must necessarily occur.<sup>51</sup> He suggested the need for associations — intermediate between the individual and the state — to confer social identity on individuals, aggregate them into politically effective and articulate interest groups, and provide social insurance.<sup>52</sup> Social insurance itself is an accumulation restraint,<sup>53</sup> while membership in an association may involve noncommodifiable entitlements. Thus, recognition is a fourth value endorsed by Fukuyama that may justify limiting the alienation and accumulation of property.

The emergent ideological “consensus” apparently requires commitment to the potentially incompatible values of allocative efficiency, personal dignity, equality, democracy, and community. Whether Fukuyama’s talismanic label of *liberal democracy* is capacious enough to encompass all these values is ultimately beside the point. The important point is that different resolutions of the tensions among these values would yield vastly different societies, so that important questions of policy and principle remain ours to debate and to decide.

### C. *Not the End of International Conflict*

If *ideological* conflict is not yet obsolete, neither is international conflict. The malleability of Fukuyama’s concept of liberal democracy fatally weakens his empirical claim that liberal democracies cooperate, while his prediction of a universal liberal alliance rests on a fundamental misunderstanding of Hegel’s philosophical history. If international conflict is driven by the yearning for recognition, Hegel gives us no warrant for expecting the universal satisfaction of that yearning. Even if liberal democracies do tend to ally, Hegel denied that any such alliance could become universal.

Fukuyama’s empirical case for perpetual peace relies on the progressive development of humanitarian values and the rarity of war between liberal democracies. The first datum need not detain us. Insofar as it is a recent development, humanitarian law is clearly a response to the vastly more destructive consequences of warfare in the modern era. War now involves more soldiers, more civilians in support, and more productive enterprises designated for destruction as military targets by more potent weaponry than ever.

The heart of Fukuyama’s empirical case for optimism is the com-

51. G.W.F. HEGEL, JENAER REALPHILOSOPHIE: DIE VORLESUNGEN VON 1803-1804, at 232-39 (1932) (destructive effect of market on community); HEGEL, *supra* note 47, at §§ 253, 255 (community required for recognition).

52. HEGEL, *supra* note 47, at §§ 302, 303, 308, § 290 add. (political voice); §§ 245, 253 (social insurance).

53. Simon, *supra* note 49, at 1346. Often social insurance is inalienable as well. See, e.g., 42 U.S.C. § 407(a) (1988) (preventing assignability of future social security benefits).

monly voiced claim that liberal democracies, though belligerent toward their ideological opponents, have never fought one another. This claim faces three related difficulties. First, to determine whether liberal democrats cooperate we must distinguish liberal democracy from other ideologies, which Fukuyama seems unable to do. Is liberalism about consumer choice, equal opportunity, or freedom of expression? Some commentators classify Wilhelmine Germany as a liberal democracy,<sup>54</sup> while Fukuyama implies that even contemporary Germany might not qualify as liberal because it punishes hate speech.<sup>55</sup> How do we classify semisocialist Sweden? Pseudorevolutionary Rumania? Be-leaguered but bloodthirsty Croatia? The once and future communist regime in Lithuania?<sup>56</sup> Fujimori's intermittent dictatorship in Peru? What about the popularly elected socialisms of Allende, Arbenz, and Ortega, all subverted by the United States?<sup>57</sup> If we laud these as liberal democracies, can we save the perpetual peace claim by classifying the extralegal American responses as departures from democracy?

Second, as the example of Sandinista Nicaragua reminds us, the claim that liberal democracies do not go to war has a circular quality. Inasmuch as warring states inevitably violate humanitarian law by slaughtering civilians, usually suspend civil liberties while delegating political authority to the military, and often face internal subversion, war makes states less liberal and less democratic. In addition, war is a forensic activity, frequently placing the previous liberality or democracy of contending governments in controversy. No state perfectly embodies its own utopian rhetoric, and no situation exposes imperfections so well as war.

Third, if we adopt a sufficiently restrictive definition of liberal democracy to exclude any states that have fought each other, we end up with too small a data set to exclude rival hypotheses. Robert Mearsheimer points out that the last half century of peace among major industrial powers can be as well explained by nuclear deterrence as by the prevalence of liberal democracy, while before World War II liberal democracies were too few and too new to generalize about.<sup>58</sup>

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54. John J. Mearsheimer, *Why We Will Soon Miss the Cold War*, ATLANTIC MONTHLY, Aug. 1990, at 35, 47.

55. Pp. 42-43 (concerns about racism, sexism, and homophobia as political threat to liberal rights); p. 294 (freedom of speech and press essential to liberalism, although qualified by exception for matters "plainly affect[ing] the welfare of the whole community"). See Donald P. Kommers, *The Jurisprudence of Free Speech in the United States and the Federal Republic of Germany*, 53 S. CAL. L. REV. 657, 685-86 (1980).

56. Celestine Bohlen, *A New Democracy Votes Communist*, N.Y. TIMES, Nov. 4, 1992, at A20; Eleanor Randolph, *Lithuanian Communists Gain Legislative Control*, WASH. POST, Nov. 17, 1992, at A27.

57. See Diana Meyers, *Kant's Liberal Alliance*, in POLITICAL REALISM AND INTERNATIONAL MORALITY 212, 216 (Kenneth Kipnis & Diana Meyers eds., 1987); Mearsheimer, *supra* note 54, at 47.

58. Mearsheimer, *supra* note 54, at 46-47; see also Jack Vincent, *Freedom and International Conflict: Another Look*, 31 INTL. STUD. Q. 103 (1987).

Even if Fukuyama's empirical claim about the tendency of liberal democracies to cooperate were acceptable, it would not by itself imply the obsolescence of international conflict. This conclusion depends on the predictions that liberal democracy will become universal and that liberal democracies will continue to cooperate when they no longer have common enemies. Fukuyama bases these bets on his teleological reading of Hegel's dialectic of recognition. Fukuyama understands Hegel to depict history as a movement from asymmetric, unequal, exclusive recognition to reciprocal, equal, universal recognition. Equating liberal democracy with recognition, Fukuyama reasons that it must become universal in scope. With universal liberal democracy, the drama of history will conclude and the thymotic motive for war will vanish.

The difficulty is that Hegel was aware of Kant's proposal that a universal liberal alliance could banish war, and he emphatically rejected it:

Perpetual peace is often advocated as an ideal towards which humanity should strive. With that end in view, Kant proposed a league of monarchs to adjust differences between states, and the Holy Alliance was meant to be a league of much the same kind. But the state is an individual, and individuality essentially implies negation. Hence even if a number of states make themselves into a family, this group as an individual must engender an opposite and create an enemy.<sup>59</sup>

Far from predicting perpetual peace, Hegel thought it inherently impossible.

Where does Fukuyama go wrong?

Fukuyama's problems begin with a common misunderstanding of the Hegelian dialectic as a secular eschatology, the itinerary for a journey to a promised land. In light of the instrumental rationality that pervades experience in a technologically advanced society, we expect any philosophy of history to narrate the implementation of a plan. This view of history also resonates with the Augustinian dualism transmitted by Christianity. Against the background of Christian eschatology, if we learn that Hegel is an idealist, we understand him to explain temporal events by reference to ideas that are eternal and transcendental, something like a design in the mind of God.<sup>60</sup> The secular-

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59. HEGEL, *supra* note 47, at § 324 add.

60. Pp. 56, 58 (declaiming that the concept of History, as used by Hegel, implies progress, which in turn implies a purpose or end that provides a fixed standard of value). Hegel easily lends himself to such a reading. Seemingly endorsing the idea that history is the unfolding of a preordained plan, we find Hegel telling his students that "Reason, in its most concrete representation, is God. God governs the world. The actual working of His government, the carrying out of His plan is the history of the world." G.W.F. HEGEL, *REASON IN HISTORY* 47 (Robert S. Hartman trans., Liberal Arts Press 1953) (1837). In reading such a passage, however, we must be careful not to ascribe to Hegel an Augustinian notion of God or a Platonic notion of reason. Rather than likening history to these static and transcendental categories, Hegel means to import dynamism and immanence into our conceptions of God and Reason by likening them to history. He introduces the analogy of reason to God as frankly heuristic, strategic, and ironic, drawing

ized version of God's plan is natural law, while our instrumentalism suggests an image of human nature as a universal desire or need. Thus, both religious tradition and modern science accustom us to representing history as the progressive satisfaction of a naturally occurring desire. Fukuyama interprets Hegel accordingly, as a prophet of utopia, an anti-Marx who credits capitalism with the fulfillment of human nature and the transcendence of all discontent.

Unlike Marx' material dialectic, however, Hegel's does not lead us to the promised land of utopia.<sup>61</sup> His is an integrative movement of mind toward the comprehension, rather than the extinction, of conflict. For Hegel conflict is not an impediment to the realization of human nature: it is the enabling condition for the creative striving that makes us human. Humanity's struggle for recognition reaches no conclusion; there is no pastoral retirement awaiting us at the end of history.

Nor is Hegel's dialectic a prophecy.<sup>62</sup> It is an interpretive theory, aimed at finding the meaning of an ever-lengthening past in light of an ever-changing present. Hegel's idealism is no Augustinian dualism in which ideas direct the players from offstage.<sup>63</sup> Not directors of the course of history, ideas are the course of history, intelligible after the

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the historical connection of the thought that Reason rules the world with another form of it, well known to us — that of religious truth: that the world is not abandoned to chance and external accident but controlled by *Providence*. . . . I do not make any demand on your belief in the principle announced; but I think I may appeal to this belief in its religious form

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On the other hand, a difference, indeed an opposition, now appears between this faith and our principle . . . . [T]his faith . . . is not followed up in definite application to the whole, the comprehensive course of world history. . . . This definiteness of Providence is usually called its *plan*. Yet this very plan is supposed to be hidden from our view; indeed, the wish to recognize it is deemed presumption.

*Id.* at 14-15. On one level, Hegel is borrowing the authority of religion to win a suspension of disbelief for the claims of speculative philosophy. On a second level, he is using irony to shame his lazy, skeptical undergraduates into working at the philosophy of history, by pointing out their credulity when it comes to religious mysteries which, because taken on faith, entail no further thought. On a third level, however, he is subverting the conventional view that history's plan is known even to God in advance of its unfolding. Hegel defines God as "wisdom endowed with infinite power which realizes its own aim," *id.* at 15, and reason similarly as "the power capable of actualizing itself." *Id.* at 47. Yet because ideas only fully exist when they become actual — hence Hegel's famous identification of the actual and the rational — reason is not a blueprint for history, but history itself. By extension God, or Spirit, is also the rational order immanent in history. What are "the means . . . Spirit uses for actualizing its concept"? "[I]t is the activity of the subjects in whom Reason is present as their substantial essence in itself, but still obscure and concealed from them." *Id.* at 48. In short, Spirit is the order created by the aggregate meaning-making of human beings intelligible after the fact.

61. See CHARLES TAYLOR, *HEGEL* 419 (1975) (observing that Hegel rejected the utopian ideal of "total participation" that Rousseau and Marx embraced).

62. *Id.* at 460.

63. Since ideas do not transcend, they also cannot precede, their concrete expression. For modern elaborations of Hegel's point about the fusion of intuition and expression, see R.G. Collingwood, *Art as Expression*, in *A MODERN BOOK OF ESTHETICS: AN ANTHOLOGY* 90 (Melvin Rader ed., 4th ed. 1973), and Benedetto Croce, *Intuition and Expression*, in *A MODERN BOOK OF ESTHETICS: AN ANTHOLOGY* 75 (Melvin Rader ed., 4th ed. 1973).

fact.<sup>64</sup> For Hegel history is created by the collective meaningmaking of human beings that constitutes Spirit, but not according to any pre-existing design.<sup>65</sup>

Fukuyama's misidentification of Hegel with Marx' utopianism distorts the crucial allegory of master and slave. Fukuyama misinterprets Hegel's demonstration of the failure of *nonreciprocal* recognition as a demonstration of the failure of *exclusive* recognition. In the two-person world of Hegel's fable, nonreciprocity is identical to nonuniversality. But, in the real world, these are not the same and, as commentators have noted,<sup>66</sup> there is nothing inherently futile about reciprocal recognition within an exclusive elite. Hegel's conception of recognition in fact requires exclusion. We can never be directly apprehended in all our uniqueness: recognition is always mediated by a social identity that joins us with some and differentiates us from others.<sup>67</sup>

If one lesson of Hegel's allegory of master and slave is the emptiness of nonreciprocal recognition, another is the emptiness of recognition that is coerced rather than earned. Recognition is valued only when conferred for some socially valued accomplishment. Here again, Fukuyama jumps to utopian conclusions, reasoning that, since coerced recognition is dissatisfying, war serves no thymotic function. Although war cannot satisfy the desire for recognition, Hegel saw it as an inevitable outgrowth of the struggle for recognition in a world in which opportunities for socially valued accomplishment are tragically scarce. The resulting competition for these scarce opportunities drives modern states into war.<sup>68</sup>

Socially valuable labor, Hegel reasoned, requires access to resources. In this way, the institutions of property and contract can facilitate self-expression.<sup>69</sup> Yet, the aggregate effect of individuals' efforts to seek social recognition for their *uses* of property is a market for its *exchange* in which they paradoxically feel anonymous and helpless. Following Adam Smith, Hegel observed that commerce tended to divide labor and concentrate capital, leading ultimately to technological innovation and automation. The resulting decrease in demand for labor, Hegel anticipated, would mean not only declining wages and working conditions, but also reduced opportunities for recognition.<sup>70</sup>

Technological innovation threatens recognition by displacing

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64. HEGEL, *supra* note 47, at 12-13.

65. TAYLOR, *supra* note 61, at 419-20.

66. See, e.g., ORLANDO PATTERSON, *SLAVERY AND SOCIAL DEATH* 97-101 (1982).

67. TAYLOR, *supra* note 61, at 447-48.

68. See GUYORA BINDER, *TREATY CONFLICT AND POLITICAL CONTRADICTION: THE DIALECTIC OF DUPLICITY* 81-84 (1988).

69. HEGEL, *supra* note 47, at §§ 41-53 (property as medium of self-expression); §§ 72-81 (contract).

70. HEGEL, *supra* note 51, at 232-39.



workers in two senses. First, by rendering workers redundant, technological innovation eliminates opportunities for earning recognition. Second, by inviting the rapid reallocation of capital and labor, technological innovation destroys the communities of work and residence that confer recognition on individuals.<sup>71</sup> Deprived of social identities, individuals have no way to formulate their interests and pursue them collectively, so that the market undermines democracy. Finally, by undermining the democratic legitimacy of the state, the market can threaten the security of property and so self-destruct.

Because Hegel saw that the market included thymotic costs that Fukuyama leaves out of his account of *capitalism*, he saw the need for corrective institutions that Fukuyama leaves out of his definition of *liberal democracy*. To counteract the thymotic as well as the economic burdens of unemployment, Hegel proposed a program of public works.<sup>72</sup> To replace the traditional communities of recognition disrupted by market forces, Hegel proposed a network of intermediate associations — guilds, professions, and the like — to educate, to foster and to sustain identity, to spread risk, and to formulate political will.<sup>73</sup> In an effort to counteract the anonymity and ruthless competition of liberal society, Hegel anticipated the macroeconomic strategies of the modern welfare state and resuscitated some of the corporatism of the *ancien régime*.

These corrective institutions are not costless, however. Hegel worried that public employment will cause overproduction, driving down the prices of privately produced goods and further undermining the economic and thymotic status of other workers.<sup>74</sup> Crises of underemployment and overproduction lead to colonial adventures aimed at developing foreign markets for excess workers and goods.<sup>75</sup> Meanwhile, intermediate associations, in order to play their stabilizing social role, must also be protected against market dislocations. This requires protection against not only domestic but also foreign competition. Each of Hegel's strategies for sustaining recognition thus forces the state into conflict with other nations.

The resulting conflict need not be universal because alliances can be mutually beneficial; but such alliances can never be universal. Hegel correctly grasped the structure of international relations that would prevail for the century following Waterloo — mutual recognition and peace among a small club of colonial powers underwritten by

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71. HEGEL, *supra* note 47, at §§ 197-98.

72. *Id.* at § 245.

73. AVINERI, *supra* note 46, at 161-75; HEGEL, *supra* note 47, §§ 252, 253, 303, 308, 290 add.; TAYLOR, *supra* note 61, at 437, 443.

74. HEGEL, *supra* note 47, at § 245.

75. *Id.* §§ 246, 248 add.

the nonrecognition and exploitation of the rest of the world.<sup>76</sup> Karl Polanyi argued persuasively that, as more Europeans joined political life between 1848 and 1914, they erected barricades of "social insurance" and "protection" that eventually brought the market to a halt, precipitating a world war and a quarter century of economic crisis.<sup>77</sup> Perhaps with the end of the cold war, we are once again entering a period of great power amity, Kant's liberal alliance rather than Metternich's Holy Alliance. But as long as the contradiction between market alienation and recognition remains unresolved, we dare not assume that such amity will be universal.<sup>78</sup>

Fukuyama is able to prophesy universal amity only because he blinds himself to this contradiction between commerce and recognition. The only cost of markets he is willing to acknowledge is the material inequality they engender, not the feelings of anonymity and ineffectuality, nor their effects on political participation. The only issue he regards as political is the extent of governmental redistribution of wealth. Hence, Fukuyama silently relegates all questions regarding the organization of work, association, the family, childcare, education, communications, and urban space to the "sub-political . . . domain of culture and of society" (p. 213). Movements to reform any of these institutions, no matter how sweeping, therefore cannot count as radical challenges to liberalism (p. 293).

Yet for Hegel, Fukuyama's ostensible mentor, this supposedly "sub-political" realm of culture and society is where identity is conferred and recognized. It is in the realm of culture and society that individual and national interests are formulated, and governments legitimized or discredited. No institutions play a more fundamental role in making us what we are than the institutions of civil society, no reform could be more radical than their reform, and no dispute could be more political than the debate over their future.

#### IV. THE POLITICS OF CIVIL SOCIETY

This is the premise of Jean Cohen and Andrew Arato's monumental study, *Civil Society and Political Theory*. Where Fukuyama's argument stresses the discontinuities between West and East, Cohen and Arato emphasize the continuities; and where Fukuyama sees the triumph of reform in the East as a vindication of the status quo in the

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76. See BINDER, *supra* note 68, at 18-22; MORTON A. KAPLAN & NICHOLAS DEB. KATZENBACH, *THE POLITICAL FOUNDATIONS OF INTERNATIONAL LAW* 314-40 (1961); HERSH LAUTERPACHT, *RECOGNITION IN INTERNATIONAL LAW* 158-74 (1947).

77. See generally KARL POLANYI, *THE GREAT TRANSFORMATION* (1957).

78. Perhaps Fukuyama is right that postideological and postindustrial powers will be less covetous of third world hearts and *mines*. But if ex-superpowers will be less aggressive in the "less-developed" world they will also be less interested. In the near future much of humanity will experience not liberal utopia, but Malthusian apocalypse — famine, disease, civil war, anarchy — and the violence of the developed world will be no less violent for being passive.

West, Cohen and Arato see reform in the East and the West as parallel projects. Interest in civil society as a site of reform arose both in the West and the East over the past quarter century for essentially the same reason — the disappointment and defeat of efforts to achieve reform through the state.

### A. *The Politics of Civil Society in the West*

During the austerity of the 1970s and the privatization process of the 1980s, a variety of factors encouraged European and American leftists to trim their sails. Economic indictments of the welfare state were widely disseminated and seemingly confirmed by the punishment international financial markets inflicted on governments pursuing redistributive programs.<sup>79</sup> A weakening of the trade union movement further undermined political support for the welfare state. While still hoping for capitalism's apocalyptic crisis in some far off "final analysis," Marxist political economists increasingly conceded that state policy and national politics would remain hostage to international markets for several centuries.<sup>80</sup> The collapse of communism provided conclusive evidence that siding with the state against the market put the left on the wrong side of history.

Finding virtue in necessity, theorists and activists began to question the desirability as well as the practicability of using the state as an instrument of working-class interests. On both sides of the Atlantic, a broad range of academics converged on a critique of the welfare state as the bureaucratic management of those it purported to empower and serve. Activists in Germany complained that working-class-affiliated parties were so corruptly implicated in the military-industrial complex that they were incapable of pursuing the emerging peace and environmental issues. The emerging movement of feminism challenged radicalism's traditional confinement of politics to the "public spheres" of state and market.<sup>81</sup>

Deeper suspicions began to surface that the left's traditional dream of a revolutionary utopia was dangerously sentimental and simplistic.<sup>82</sup> Revolution struck poststructuralists as implying the return of power to an original popular sovereign unmediated by representative institutions.<sup>83</sup> They suspected that utopianism similarly expressed an

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79. See, e.g., Fred Block, *Social Policy and Accumulation: A Critique of the New Consensus*, in *STAGNATION AND RENEWAL* 13 (Martin Rein et al. eds., 1987).

80. See Immanuel Wallerstein, *Dependence in an Interdependent World: The Limited Possibilities of Transformation Within the Capitalist World Economy*, 17 *AFR. STUD. REV.* 1 (1974).

81. P. 12 (right wing critique of welfare state); pp. 42-47 (German "Greens" attack on party system, as articulated by Claus Offe); pp. 532-48 (feminist critique of state/market dichotomy); pp. 262-68 (Foucaultian attack on welfare state).

82. See Binder, *supra* note 36, at 2008-12.

83. Jacques Derrida, *Force of Law: The "Mystical Foundation of Authority"*, 11 *CARDOZO L. REV.* 919 (Mary Quaintance trans., 1990).

unrealistic hope of returning humanity to some unalienated natural state. Poststructuralists came to view all such efforts to resist heteronomy as totalitarian threats to heterogeneity.<sup>84</sup> Others endorsed leftist critiques of the market but felt torn between the competing utopias of meaningful work, cultural community, and participatory politics. Unwilling to embrace the individualism or value neutrality often associated with an ethic of consumption, they nevertheless began to see *civil society* as a forum in which a plurality of goods could be pursued collectively. A differentiated society, in which success is measured and recognition conferred along a multiplicity of parameters, seems unlikely to be a hierarchical society.<sup>85</sup>

To Western reformers, then, *civil society* has come to represent a setting in which the New Left themes of community and participatory democracy can be pursued at a safe distance from both the embarrassment of Marxism and the demands of capitalism.

### B. *The Politics of Civil Society in the East*

For Eastern reformers also, the turn to civil society began as a prudential strategy. Recalling Soviet repression of both popular revolution in Hungary and government-led reform in Czechoslovakia, Eastern Europeans might well have despaired of achieving any meaningful change. But Polish reformer Adam Michnik instead drew the conclusion that reform might be sustainable so long as it left the state-party apparatus intact. The goal of reform, Michnik concluded, should be to create a vocal, organized, and politically informed public, capable of criticizing, influencing, and legitimizing state policy.<sup>86</sup>

Surprisingly, this strategy met with a measure of encouragement from governing elites in Poland, Hungary, and the Soviet Union. Like the French Revolution, some of the Eastern European revolutions seemed ascribable to the efforts of absolutist rulers to discipline their recalcitrant subordinates by mobilizing public opinion.<sup>87</sup> In the Soviet and Hungarian cases, economic crises induced a new generation of leaders to try market-oriented reforms. As these reforms met with bureaucratic resistance, the new leaders sought popular support, thereby encouraging the emergence of a civic public.<sup>88</sup> In the Polish

84. See, e.g., Iris M. Young, *The Ideal of Community and the Politics of Difference*, in *FEMINISM/POSTMODERNISM* 300 (Linda J. Nicholson ed., 1990).

85. See DON HERZOG, *HAPPY SLAVES: A CRITIQUE OF CONSENT THEORY* (1989); Michael Walzer, *A Better Vision: The Idea of Civil Society*, 1991 *DISSENT* 293.

86. Pp. 31-32; ADAM MICHNIK, *A New Evolutionism*, in *LETTERS FROM PRISON AND OTHER ESSAYS* 135 (Maya Latynski, trans., 1985).

87. For an interpretation of the French Revolution as the monarchy losing control of its own modernization policy, see SIMON SCHAMA, *CITIZENS: A CHRONICLE OF THE FRENCH REVOLUTION* (1989).

88. Pp. 60-65. For an extensive discussion of the emergence of a civic public in the Soviet Union, see GEOFFREY HOSKING, *THE AWAKENING OF THE SOVIET UNION* (1990), especially at 50-75, 126-56. For accounts of the Hungarian transition, see Barnabas Racz, *Political Pluralisa-*

case, an unrepentant regime lost the ability to maintain economic order. Here, too, the government came to see dissidents — already organized by Solidarity and by the Church — less as enemies than as potential partners with whom to negotiate some alternative to anarchy.<sup>89</sup> Once mobilized, legitimated, and in time even legally protected, the new civic publics could not be confined to commenting on economic policy. Once the principle of popular consultation was thus entrenched, pressure for democratization became difficult to resist.

Had the Eastern European revolutions followed the course of the French revolution, we might have expected a Jacobin moment in which the revolutionary vanguard threw off the shackles of the old regime and constituted themselves representatives of a sovereign. Some have suggested that they will do so,<sup>90</sup> and some have suggested that they should.<sup>91</sup> But many Eastern European reformers have expressed a continuing commitment to the civil society strategy and a self-conscious resistance to the Jacobin temptation.<sup>92</sup> Seeing totalitarian dangers in the invocation of an extraconstitutional sovereign, they have preferred to amend existing organic laws, deficient in popular legitimacy though those laws may be.<sup>93</sup> By eschewing the fiction that institutions are brought into being by the unitary will of a constituent power, reformers have expressed a commitment to the rule of law, avoided self-apotheosis, and they have welcomed a plurality of political voices into the reform process.

Perhaps dangerously, these voices have often included prior ruling elites. Yet just as these elites were not strong enough to rule without the legitimation of the dissidents, the former dissidents may not yet be strong enough — may not wish to be strong enough — to rule without the supporters of the old regime. By inviting the communists in, the reformers avoid provoking counterrevolution, share responsibility for unpopular austerity programs, and broaden the still narrow civic

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tion in Hungary: *The 1990 Elections*, 43 SOVIET STUD. 107 (1991); Anna Seleny, *Hidden Enterprise and Property Rights Reform in Socialist Hungary*, 13 LAW & POLY. 149 (1991); Rudolf L. Tökés, *Hungary's New Political Elites: Adaptation and Change, 1989-90*, PROBS. OF COMMUNISM, Nov. - Dec. 1990, at 44; Ivan Volgyes, *Leadership Drift in Hungary: Empirical Observations on a Normative Concept*, 22 STUD. COMP. COMMUNISM 23 (1989).

89. Pp. 65-66. For fuller accounts of the role of civil associations in the Polish transformation, see LAWRENCE GOODWYN, *BREAKING THE BARRIER: THE RISE OF SOLIDARITY IN POLAND* 255-311 (1991); MICHAEL D. KENNEDY, *PROFESSIONALS, POWER AND SOLIDARITY IN POLAND* 161-95 (1991); Robert Zuzowski, *The Origins of Open Organized Dissent in Today's Poland: KOR and Other Dissident Groups*, 25 E. EUR. Q. 59 (1991).

90. Wiktor Osiatyński, *The Constitution-Making Process in Poland*, 13 LAW & POLY. 125, 132 (1991).

91. ACKERMAN, *supra* note 34, at 46-68.

92. This preference for a differentiated and institutionalized sovereign over a unitary popular sovereign is a strong theme in Hegel's political theory. See TAYLOR, *supra* note 61, at 405-06, 412-13, 434.

93. Ulrich K. Preuss, *The Politics of Constitution Making: Transforming Politics into Constitutions*, 13 LAW & POLY. 107, 109-13 (1991).

class.<sup>94</sup>

Motivating the reformers' self-limiting gestures is the goal of insulating civil society from the state. What is not yet clear is the extent to which civil society will be identified with emergent markets. In Poland, the mobilization of civil society preceded privatization, and there is some evidence that the privatization process is being planned to preserve or foster workplace association by giving or selling enterprises to their workers.<sup>95</sup> In Hungary, on the other hand, considerable privatization had already occurred under communism, and some believe this precipitated the emergence of a reform constituency.<sup>96</sup> While markets were part of the program upon which all the reform movements rode to power,<sup>97</sup> Eastern Europeans cynically expect privatization to benefit primarily former party members with more connections and hard currency.<sup>98</sup> Echoing Hegel, some observers are also concerned about the threat unregulated markets may pose to the solidarity of the very associations that enabled reform in the first place.<sup>99</sup> Cohen and Arato warn that

[democratic] actors will not be able to accept liberal economic policy as anything but transitional, since a fully automatic market would become destructive for the social fabric, for social solidarity. Karl Polanyi's lesson should not be forgotten, particularly in his native country, and indeed the actors of civil society will certainly relearn it. [p. 489]

Surprisingly, this dual anxiety of Eastern European reformers to insulate civil society from both state and market converges with the recent thought of reformers in the West.

## V. A CULTURAL THEORY OF POLITICS: *CIVIL SOCIETY AND POLITICAL THEORY*

Drawing together the Eastern and Western variants of the civil society argument, Cohen and Arato urge the advantages of civil society's differentiation from state and market. Principally, they urge that civil society is a more auspicious site for further democratizing contemporary society than either state or market (p. 417).

No review can fairly summarize this epic, eclectic, almost encyclopedic<sup>100</sup> volume, which introduces the reader to the conceptions and

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94. Bruce Ackerman offers a similar argument against draconian punishment of prior ruling elites. ACKERMAN, *supra* note 34, at 69-98.

95. Andrzej A. Czynczyk, *Privatization in Poland: Politics, Society, and the Law*, 13 LAW & POLY. 171, 172-76 (1991).

96. Seleny, *supra* note 88.

97. See Preuss, *supra* note 93, at 111.

98. Czynczyk, *supra* note 95, at 176; Voytek Zubek, *The Polish Communist Elite and the Petty Entrepreneurs*, 25 E. EUR. Q. 339, 355 (1991).

99. See TAYLOR, *supra* note 61, at 405.

100. A more completely encyclopedic volume would have given us a fuller introduction to such predecessors of Hegel as Bodin, Locke, Montesquieu, Hutcheson, and Herder; would have

critiques of civil society developed by — to mention only the starring roles — Michnik,<sup>101</sup> Hegel,<sup>102</sup> Parsons,<sup>103</sup> Gramsci,<sup>104</sup> Arendt,<sup>105</sup> Schmitt,<sup>106</sup> Habermas,<sup>107</sup> Foucault,<sup>108</sup> Luhmann,<sup>109</sup> Teubner,<sup>110</sup> Offe,<sup>111</sup> Touraine,<sup>112</sup> Tilly,<sup>113</sup> and Fraser.<sup>114</sup> For our purposes, however, Cohen and Arato's argument is most usefully understood as a challenge to four conventional oppositions in contemporary political debate.

First, by stressing the potential autonomy of civil society, Cohen and Arato challenge the conventional division of society into *state* and *market* (pp. 11-18); the authors take particular pains to distinguish civil society from each. Thus they criticize classical democracy's identification of community and polity for politicizing all social life, including questions of culture (pp. 197-200); and they express the concern that Hegel would not sufficiently insulate civil society from

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given more attention to Hegel's great contemporary De Tocqueville; and would not have neglected Hegel's most important successor, Otto Gierke.

101. MICHNIK, *supra* note 86.

102. HEGEL, *supra* note 47.

103. TALCOTT PARSONS, *THE SYSTEM OF MODERN SOCIETIES* (1971).

104. ANTONIO GRAMSCI, *PRISON NOTEBOOKS* (Joseph A. Buttigieg ed. & Joseph A. Buttigieg & Antonio Callari trans., Columbia Univ. Press 1992) (1975).

105. HANNAH ARENDT, *THE HUMAN CONDITION* (1958); HANNAH ARENDT, *ON REVOLUTION* (1963); HANNAH ARENDT, *THE ORIGINS OF TOTALITARIANISM* (1951).

106. CARL SCHMITT, *THE CONCEPT OF THE POLITICAL* (George Schwab trans., Rutgers Univ. Press 1976) (1932); CARL SCHMITT, *THE CRISIS OF PARLIAMENTARY DEMOCRACY* (Ellen Kennedy trans., M.I.T. Press 1985) (1923).

107. JÜRGEN HABERMAS, *COMMUNICATION AND THE EVOLUTION OF SOCIETY* (1979); JÜRGEN HABERMAS, *LEGITIMATION CRISIS* (Thomas McCarthy trans., 1975); JÜRGEN HABERMAS, *THE STRUCTURAL TRANSFORMATION OF THE PUBLIC SPHERE: AN INQUIRY INTO A CATEGORY OF BOURGEOIS SOCIETY* (Thomas Burger & Frederick Lawrence trans., 1989); JÜRGEN HABERMAS, *THEORY AND PRACTICE* (Thomas McCarthy trans., 1973); JÜRGEN HABERMAS, *THE THEORY OF COMMUNICATIVE ACTION* (Thomas McCarthy trans., 1984).

108. MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (Alan Sheridan trans., 1977).

109. JÜRGEN HABERMAS & NIKLAS LUHMANN, *THEORIE DER GESELLSCHAFT ODER SOZIALTECHNOLOGIE: WAS LEISTET DIE SYSTEMFORSCHUNG?* (1971); NIKLAS LUHMANN, *THE DIFFERENTIATION OF SOCIETY* (Stephen Holmes & Charles Larmore trans., 1982); NIKLAS LUHMANN, *POLITICAL THEORY IN THE WELFARE STATE* (1990); NIKLAS LUHMANN, *A SOCIOLOGICAL THEORY OF LAW* (Martin Albrow ed. & Elizabeth King & Martin Albrow trans., Routledge & Kegan Publ. 1985) (1972).

110. Gunther Teubner, *Substantive and Reflexive Elements in Modern Law*, 17 *LAW & SOC. REV.* 239 (1983).

111. CLAUS OFFE, *CONTRADICTIONS OF THE WELFARE STATE* (John Keane ed., 1984); CLAUS OFFE, *DISORGANIZED CAPITALISM* (John Keane ed., 1985).

112. ALAIN TOURAINE, *THE MAY MOVEMENT* (Leonard F.X. Mayhew trans., Random House 1971) (1968); ALAIN TOURAINE, *THE VOICE AND THE EYE* (Alan Duff trans., Cambridge Univ. Press 1981) (1978); Alain Touraine, *An Introduction to the Study of Social Movements*, 52 *SOC. RES.* 749 (1985); Alain Touraine, *Triumph or Downfall of Civil Society*, in 1 *HUMANITIES IN REVIEW* 218 (Ronald Dworkin et al. eds., 1982).

113. CHARLES TILLY ET AL., *THE REBELLIOUS CENTURY: 1830-1930* (1975).

114. Nancy Fraser, *What's Critical About Critical Theory? The Case of Habermas and Gender*, *NEW GERMAN CRITIQUE*, Spring/Summer 1985, at 97 (1985).

the influence of the state (pp. 233, 248, 249, 411). On the other hand, they object to the Scottish school's identification of sociability with commerce (pp. 89-90) and reject Marx' reduction of civil association to bourgeois bargaining (p. 411).

For Cohen and Arato, the state and the market are distinct *subsystems* within society (p. 428), best understood as tools or *steering mechanisms* that aggregate and implement voter and consumer preferences (pp. 471-72). Perhaps alienating, these steering mechanisms are nevertheless useful and inevitable features of modern society (p. 415). Only in civil society does the modern citizen-consumer receive her ration of recognition (pp. 376, 417, 472, 480). While the state is the arena of politics and the market of economics, Cohen and Arato see civil society as the seat of culture. They further divide culture into three aspects: (1) civil society's institutional *structure*, by which they mean the associations that make up civil society (pp. 428-29), (2) the group *identities* conferred and recognized within civil society (pp. 376-78, 558-60), and (3) the codes of normative *discourse* — the shared purposes, perspectives, traditions, and vocabularies — that hold groups together (pp. 435-36, 526). To say that the subsystem of civil society is the seat of culture is to say that it functions within the larger social system to produce the preferences aggregated by the subsystems of state and market.

Second, following Michnik, Cohen and Arato blur the neat distinction between *reform* and *revolution* (p. 493). The differentiation of society into several relatively autonomous subsystems implies that change can take place in one without dramatically altering another. Indeed, Cohen and Arato suggest that the successful reform of one subsystem may depend on the stable support of the others. At the very least, reform stands a better chance if it does not simultaneously threaten interests entrenched in all three. Because the goal of total revolution attacks society as an integrated totality, however, it is pragmatically unrealistic and normatively undesirable.

Third, by stressing civil society's artificiality, Cohen and Arato challenge the conventional opposition between *liberalism* and *communitarianism* (pp. 8-10). Here, they have four related points to make.

First, following Hegel,<sup>115</sup> they distinguish the associations of civil society from the traditional ascriptive communities threatened by modernization (pp. 500-03, 524). Many of the institutions of civil society — professional societies, charitable organizations, trade unions — are distinctively modern and wholly voluntary. In addition, many of the characteristic activities of these organizations — meeting, marching, striking, publishing, lobbying, suing — are made possible by characteristically modern legal protections.

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115. P. 106; TAYLOR, *supra* note 61, at 435.



Thus, a second point is that the collective action of civil associations depends upon the civil liberties of individuals (pp. 400-03, 562).

Third, if modern community depends upon liberal rights, liberal individualism also depends upon community. Following Hegel, Cohen and Arato reason that individual identity is conferred by social recognition in the context of community (pp. 377-78). What makes modern society freer than a traditional ascriptive community is not the absence of community, but the availability of multiple communities offering a given individual multiple identities (pp. 433-36).

Fourth, solidarity depends upon and fosters not only the libertarian, but also the democratic aspect of liberalism. Solidarity depends upon democracy because civil society is an artificial construct, not a given. The formation and sustenance of civil associations depend upon a myriad of social and *political* choices.<sup>116</sup> Hence, we cannot secure solidarity without democratic control over the conditions of civil association. At the same time democracy depends upon solidarity because, as Michael Walzer puts it,

[n]o state can survive for long if it is wholly alienated from civil society. It cannot outlast its own coercive machinery; it is lost, literally, without its firepower. The production and reproduction of loyalty, civility, political competence, and trust in authority are never the work of the state alone, and the effort to go it alone — one meaning of totalitarianism — is doomed to failure.<sup>117</sup>

A fourth currently conventional opposition Cohen and Arato challenge is the distinction between *representative* and *participatory* democracy (pp. 4-8). Partisans often defend representative democracy as a device for consulting and accommodating all interest groups powerful enough to disrupt the social order. Participatory democracy, by contrast, is usually defended as a path to self-realization, deliberative rationality, and group solidarity. But because group interests are formulated in civil society, reason Cohen and Arato, participatory and representative democracy can coexist. Civil society is the context for participation with its attendant educational benefits (pp. 417, 599). The political subsystem is the context for representation, the steering

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116. As Michael Walzer points out:

Families with working parents need state help in the form of publicly funded day care and effective public schools. National minorities need help in organizing and sustaining their own educational programs. Worker-owned companies and consumer cooperatives need state loans or loan guarantees; so do (even more often) capitalist entrepreneurs and firms. Philanthropy and mutual aid, churches and private universities, depend upon tax exemptions. Labor unions need legal recognition and guarantees against "unfair labor practices." Professional associations need state support for their licensing procedures. And across the entire range of association, individual men and women need to be protected against the power of officials, employers, experts, party bosses, factory foremen, directors, priests, parents, patrons; and small and weak groups need to be protected against large and powerful ones. For civil society, left to itself, generates radically unequal power relationships, which only state power can challenge.

WALZER, *supra* note 85, at 302.

117. *Id.* at 301.

of policy by interests. Absent broad participation in the formulation of group interests, their pursuit in the crass arena of interest-group politics cannot be democratically legitimate (p. 418). At the same time, if democratically formulated interests are not zealously represented, fairly aggregated, and efficiently implemented, democracy will also be thwarted (pp. 414-15). Hence, representative and participatory democracy are not just compatible, but mutually dependent norms governing the distinct arenas of state and civil society.

Although this collaboration between representation and participation depends partly on the separation between state and civil society, it also links these arenas together. For Cohen and Arato do not simply accept the conventional dichotomy between deliberative participation and adversarial representation. Instead, they regard deliberative rationality as a criterion of legitimacy for all democratic processes, representative as well as participatory. Representative democracy must not only aggregate but also integrate diverse interests by commensurating them to broadly shared principles and purposes (pp. 413, 589). Cohen and Arato suggest that this purpose is best accomplished when the political process is permeated by deliberative bodies in which the associations of civil society are represented (pp. 482, 544, 547). While they are frustratingly vague on how to institutionalize these cultural *receptors*, we might imagine a proliferation of citizen commissions conducting public hearings and reporting on policy issues. Such a device would enable citizen participation while informing representative deliberation.

In this complex vision of democracy, representative democracy depends upon a participatory civil society not only for the preferences it aggregates, but for the civic culture — the mutually intelligible grammar of argument, empathy, deference, and reconciliation — that enables deliberation (pp. 413, 589). Yet, the achievement of this important contribution to democratic representation constrains civil society. Associations and groups must define themselves as part of a tolerant, pluralist society and must articulate their values in terms intelligible to others if they are to sustain, rather than simply take advantage of, democracy (p. 602).

In sum, seeing liberal representative democracy as necessary but insufficient, Cohen and Arato would subject it to the influence of a relatively autonomous, solidaristic, and participatory civil society.

How can this be accomplished? Cohen and Arato identify two types of reform strategies compatible with their program: social movements that attempt to change power relations by changing culture, and policy reforms that redistribute resources by empowering associations rather than simply transferring wealth.

Sociologists have traditionally explained collective protest either as a mass hysterical reaction to social change (p. 495) or as the exploita-

tion by long-standing interest groups of emergent conflicts among elites (pp. 496-503). Yet these theories have had difficulty accounting for the new social movements of the last three decades — the American civil rights movement; pacifist, feminist, and environmentalist movements throughout the West; liberation theology in Latin America; and prodemocracy movements in Latin America, and Southern and Eastern Europe. The arresting aspect of these movements is that they brought together and mobilized large numbers of previously unconnected people through rational discourse. Cohen and Arato see these movements as examples of discursive action's potential to change policy by changing the interests and self-conceptions of political actors (pp. 503-20, 530).

The authors use the American feminist movement as an example of such a cultural path to political change (p. 548). In deliberately politicizing such "private sphere" issues as contraception, abortion, rape, sexual harassment, domestic violence, childcare, and women's health (pp. 551, 554-55), the practice of consciousness raising affects all the aspects of culture analyzed above. First and most obviously, by developing and disseminating new codes of normative discourse, consciousness raising influences political views. Second, by naming unarticulated grievances, such movements confer new identities. Third, political meetings, consciousness-raising groups, and the like provide solidarity by embodying those identities in new associative structures. Fourth, to the extent raised consciousness alters patterns of association in the "private sphere," it further impacts culture (pp. 526, 550-54).

These cultural changes alter policymaking not only by changing the language of public debate, but also by including new participants, who become receptors of civil society in the political process. At this point winning legal protections against violence and discrimination or for reproductive autonomy becomes possible. Such protections, in turn, further entrench the movement in civil society by fostering new institutions such as abortion clinics, battered women's shelters, rape crisis centers, and daycare centers, and by continuing to restructure the most influential association in civil society, the family.

Social movements win representation in policymaking by mobilizing participation in the realm of civil society, yet policymakers can affect the conditions of civil societal mobilization for better or worse. Cohen and Arato identify the controversial area of social welfare policy as one in which differing approaches can make civil society more or less participatory. Unwilling simply to endorse the repudiation of the welfare state that has recently emerged across the political spectrum, Cohen and Arato distinguish between welfare state reforms that empower and those that weaken civil society:

Surely legal reforms that secure the freedom of wage workers to organize unions and bargain collectively, that protect them from being fired for

such collective action, and that secure worker representation on company boards differ in kind from means-tested grants to single parent households and from social services that "instruct" clients on how to function properly as childrearers and responsible providers according to some preconceived model. The difference between these types of reforms is not fully captured by reference to the genders (or, for that matter, to the race) of the people they target. . . . The former set of reforms, unlike the latter, do not create isolated clients of a state bureaucracy but rather empower individuals to act together collectively, to develop new solidarities, and to achieve a greater balance of power relations because they are addressed to an area that is *already* formally organized. Such reforms create "receptors" in the economic subsystem for the influence of the norms and modes of action of civil society by putting procedures for discursive conflict resolution into place, thereby asserting control of the latter over the former without dedifferentiating them. The second type of reform does the reverse: It brings the full force of administrative agencies into areas that are not and should not be formally organized. This threatens the communicative infrastructure and autonomy of civil society and undermines the capacities of "beneficiaries" to act for themselves or to settle conflicts discursively. [p. 547; footnotes omitted]

In preferring guarantees of job security, solidarity, and participation to mere transfer payments, Cohen and Arato replicate Hegel's point that social stability and political legitimacy depend upon a broad distribution not of wealth, but of recognition.

Yet this Hegelian analysis of the social welfare problem reveals the greatest difficulty facing Cohen and Arato's cultural theory of politics. For Hegel, you may recall, the social welfare problem was modern society's Achilles' heel: no matter how much wealth markets generate, they can not by themselves generate universal recognition unless they can put everyone to productive, challenging, educative work. But the market's logic of competitive automation sets productivity and labor intensity at odds. Although an advanced, postindustrial economy can easily afford welfare transfers to the marginally least productive laborers, this does not give them the recognition they desire. Productively employing them, however, leads to overproduction — which not only defeats the purpose, but also disrupts the market's efficient allocation of resources. Hence, Hegel's deeply pessimistic claim is that recognition and efficient allocation are ultimately incompatible — that culture and commerce are intractably opposed subsystems.

What is the relationship between culture and commerce in Cohen and Arato's theory? While providing an elaborate and plausible vision of a participatory culture's democratizing influence on the political subsystem, they are frustratingly evasive on the desirability of similarly democratizing the economic subsystem. Cohen and Arato worry that if workplace participation means perpetual meetings, it will im-

pair efficiency.<sup>118</sup> On the other hand, they endorse the representation of workers in corporate decisionmaking (pp. 416-17, 479) without ever explaining how workers are to develop the deliberative, participatory culture that would qualify such representation as democratic. If worker representation is nothing more than bargaining over economic interests ascribed to workers, it is simply another form of commerce, unaffected by culture. At one point Cohen and Arato suggest the conflicting claims of culture and commerce may be left to democratic resolution in the political subsystem (p. 399). But if the representative democracy of the political subsystem depends upon a deliberative, participatory culture, and if the commercialization of association threatens that culture, the political subsystem may lose its democratic character.

At the core of Cohen and Arato's confusion concerning the relationship between culture and commerce is their equivocation on the importance of self-realization through meaningful work. For Hegel, work was a crucial arena for personal development and social recognition. He envisioned the organization of workers into societies admitting members on the basis of proficiency and inculcating skills, ethics, and pride.

The closest analogues to Hegel's guildlike corporations in our postindustrial service economy are the professions, and there is considerable appeal to the idea of professionalizing all service. Bill Simon has suggested that professionalization not only enhances the dignity and interest of service work, but also the recognition and participation afforded service consumers or clients.<sup>119</sup> It also gives both parties a common interest and language, which may be the basis for political mobilization.

But can these cultural benefits be achieved without reducing allocative efficiency? Can a postindustrial service economy universalize recognition without provoking the crises of overproduction that Hegel foresaw for industrial economies? I suspect not. Health care provides the most spectacular example of the spiraling cost of professional services. How much of this cost is ascribable to the Kantian ethic of valuing each patient as an end in herself? The upside of this ethic is its recognition of the patient's uniqueness, and the challenge it affords doctors to test the utmost limits of their skill and compassion. The downside includes the expenditure of resources on high technology and deathbed heroics that would be better spent on preventive public health measures.

Following Hegel, we may think of extraordinary care as a form of

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118. Pp. 20, 416, 453-54, 476 (describing conflicts between economic rationality and solidarity).

119. William H. Simon, *Legality, Bureaucracy, and Class in the Welfare System*, 92 YALE L.J. 1198 (1983).

overproduction in the service economy. Psychotherapy, litigation, and education may be services that are similarly overproduced in our society, in self-defeating efforts to close a collective deficit of recognition. The fewer people we can employ making things, the more people we must employ producing human capital; but the more human capital we produce, the more human capital we must productively employ. Hegel's vicious cycle of overproduction and underrecognition seems to survive the passing of industrial society. Even if, as Fukuyama argues, the passing of industrial society has ended state-socialism's challenge to the market, the fundamental, generative conflict of culture and commerce endures.

Unlike Fukuyama, Cohen and Arato recognize the composition of culture as a difficult political issue. But, like Fukuyama, they simply assume the peaceful coexistence of culture and commerce and thereby disguise the issue's real difficulty.

## VI. THE CURTAIN REMAINS OPEN, THE STAGE LIT

The cold war fortified the boundary between state and market, enshrouding in iron the cultures constructing each. The parting of that iron curtain reveals the rich array of political choices facing us in the fashioning of culture. In politicizing culture, the end of the cold war broadens political debate from the single dimension of how much the state should regulate commerce to the polydimensional questions of what kind of state and what kind of market we aspire to have.

Fukuyama remains blind to the political complexity revealed by the iron curtain's withdrawal. Recognizing only the cold war's single dimension of struggle, Fukuyama sees its end as the iron curtain's retreat rather than its breach. Hence, he remains blind to the contingency revealed behind the curtain. What marks Fukuyama as a neoconservative is first, that his liberalism is rooted in an invariant conception of human nature, and second, that it is confined to the political and economic spheres. In the sphere of culture, he is conservative. For Fukuyama, culture is an unalterable given, a residue of traditional authority surviving the modernization of political and economic life. It is crucially important, determining rates of productivity and violent crime; but it is beyond political debate, impervious to deliberate and deliberative choice, and outside history. Notwithstanding his appropriation of Hegel, Fukuyama is profoundly antihistoricist. If he now believes history is over, that is because he assumes nothing important could ever be decided by history anyway.

If neoconservatives are cultural conservatives only, Cohen and Arato are neoradicals, confining their radicalism to the cultural sphere. Calling for radical cultural transformation, they see culture as a domain of political struggle and historical contingency. In this sense, they are genuine historicists. The difficulty is that, because cul-

ture constructs political and economic interests, the politics of culture cannot be so neatly confined to the cultural sphere. Cohen and Arato confront and illuminate the complex linkages between the cultural domain of civil society and the political domain of the state. Here they seem gratified to point out that the cultural construction of politics permits its further democratization. But they leave the linkages between civil society and market in the shadows and evade the question of how much economic change a more democratic culture would require.

We may understand post-totalitarian politics in two ways. We may conclude that the curtain has come down on history and the important political disputes have all been resolved in favor of liberalism. Or, recalling that liberalism garnered much of its meaning and appeal from its confrontation with totalitarianism, we may suspect that liberalism's triumph has drained it of content and consequence. Reminded of history's contingency by the cold war's *dénouement*, we may speculate that post-totalitarian politics will prove equally unpredictable. Though our conflicts may now be confined to the realm of culture, culture is no refuge from history. It is where history gets made.

The curtain remains open, the footlights beckon, and nothing prevents our stepping onto the stage.