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## “Those People [May Yet Be] a Kind of Solution” Late Imperial Thoughts on the Humanization of Officialdom

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## **“Those People [May Yet Be] a Kind of Solution” Late Imperial Thoughts on the Humanization of Officialdom**

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### I. INTRODUCTION

We are quite sympathetic to the thrust of this Conference, and to John Braithwaite’s work over an illustrious career. The legitimation of power, almost invariably including a discussion of limitations and temperance, is perhaps the heart of political philosophy. The notion of division, of various sorts of power lodged in various places, inhibiting each other and so tyranny, is central to our understandings of the United States Constitution, with both a capital and a lowercase “c.”<sup>1</sup> Market integration, the

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† Louis A. Del Cotto Professor and Co-Director, UB New York City Program on Finance & Law, University at Buffalo, State University of New York. We would like to thank Errol Meidinger and the Baldy Center for putting this conference together. Christina Garsten, Rosa Lastra, and Joseph Westbrook helped at one or another stage of the argument. The mistakes and other infelicities are our responsibility.

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1. The *locus classicus* is the *Federalist Papers*. See also Gayatri Chakravorty Spivak, *Constitutions and Culture Studies*, 2 YALE J.L. & HUMAN. 133 *passim* (1990).

European project, and globalization can, perhaps only can, be legitimated in terms of the interpenetration of powers, namely, the destruction of national congruencies among peoples, ideologies, governments, industrial capacity, and military capability most perfectly expressed by Nazi Germany, albeit at the cost of alienation that we are now seeing expressed in the United States, Germany, and jarringly, Sweden, the Shangri La of United States left liberal politics. Arriving at the contemporary, we see leaders around the world whose reach must be limited for the sake of many. So it is not that power and its limitation, especially through complex structures and more amorphous assemblages, do not pose profound and vital questions.

The invitation to this Conference, however, asked us to address this topic in relation to our current scholarship. In our work over the last decade or more, a less familiar view of “power” is emerging from the mists of social inquiry. We might begin by recalling Hannah Arendt’s distinction between power, understood by those subject to it to be authoritative because believed to be legitimate, and violence, which subjects merely suffer.<sup>2</sup> Rather than assuming the existence of power and concerning ourselves with mechanisms for its temperance, we have been studying power as expressed in various “present situations” by officials whose offices are believed to be more or less legitimate if hardly infallible. If this depiction fairly portrays some important aspects of our world, then a different posture for the academic would seem to be in order, at least in some circumstances. But we are getting ahead of the argument.

We started and are still working together in the context of “Global Foresight,” a multiyear, multinational and multidisciplinary project directed by Christina Garsten, Professor of Social Anthropology at Stockholm University

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2. HANNAH ARENDT, *On Violence*, in *CRISES OF THE REPUBLIC* 83 *passim* (1972). Arendt distinguishes power (recognized by tradition and common consent) from violence (born of political illegitimacy). Thanks to Joseph A. Westbrook for the clarification.

and Principal at Swedish Collegium for Advanced Studies. The Program is funded by the Riksbankens Jubileumsfond, The Swedish Foundation for Humanities and Social Sciences, perhaps best known for establishing the “Nobel” in Economics.<sup>3</sup> The Jubileumsfond was itself established by the Riksbank, Sweden’s central bank, which happens to be the oldest such bank in the world.

In diverse settings increasingly studied by ethnographers, plausible (and desirable or objectionable) futures are brought into the present by being mapped or otherwise represented. The combination of abstraction and plausibility tacitly implies an ethos of representation—the scenario is often assumed to be a fair articulation of a specific future state. But the future made present is also performative and in that sense, subjective. And as the future is studied, as work is done today to attain or avoid some future, collectivities are constituted. The image is of a map tending towards a blueprint, script, or even choreography, meant to be accurate even if also subjective, a participatory description. We speak of “anticipatory knowledge,” of things that organizations come to know about that which, somewhat bewilderingly, has yet to come to be. The future is thus made tractable, or at least made to appear to be tractable, in important present situations such the Bank of England,<sup>4</sup> Google,<sup>5</sup> the Norwegian Government Pension

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3. Technically, “The Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel,” was established in 1968, long after the death of Alfred Nobel, who established the Nobel prizes via his will. The first prizes were awarded in 1901, on the first anniversary of Nobel’s death.

4. DOUGLAS R. HOLMES, *ECONOMY OF WORDS: COMMUNICATIVE IMPERATIVES IN CENTRAL BANKS passim* (2014).

5. Mikkel Flyverbom & John Murray, *Datastructuring—Organizing and Curating Digital Traces into Action*, *BIG DATA & SOC’Y*, JULY-DEC. 2018, at 1.

Fund Global,<sup>6</sup> the World Economic Forum (“Davos”),<sup>7</sup> and others. Professor Maguire’s ethnographic research focuses on airport security comprising a host of institutions, from local police to the North Atlantic Treaty Organization. From these and other conversations (Professor Westbrook is active in several fields), much more nuanced understandings of how officials think in time, and hence official power itself, emerge.

A word of caution: the various projects within Global Foresight do not constitute anything like a “map” of power in today’s world, but they do form important islands in what might be imagined as the archipelago of modernity. It is a bit quick to claim that by looking at how the future is confronted by our officials, we can glimpse, out of the corner of our eyes as it were, what it means to be “modern” now—but something along those lines.<sup>8</sup>

## II. A FEW ASPECTS OF OFFICIALDOM

A few themes or general fields have emerged from analysis and discussion across the various sites comprised by Global Foresight. What follows is a sketch of some key aspects of ways in which official power, power over modern life, is both quantitatively less and qualitatively different

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6. Knut Christian Myhre and Douglas R. Holmes, among other scholars, are currently conducting research that examines the management of the Norwegian Government Pension Fund Global. The project “explores how ethical forms shape finance to create new iterations of the economy, and how financial forms entail ethical concerns.” The project is funded by the Research Council of Norway. UNIV. OF OSLO MUSEUM OF CULTURAL HISTORY, FORMS OF ETHICS, SHAPES OF FINANCE: ETHNOGRAPHIC EXPLORATIONS OF THE LIMITS OF CONTEMPORARY CAPITAL, <https://www.khm.uio.no/english/research/projects/forms-of-etics/index.html> (last visited June 2, 2019).

7. CHRISTINA GARSTEN & ADRIENNE SÖRBOM, *DISCREET POWER: HOW THE WORLD ECONOMIC FORUM SHAPES MARKET AGENDAS passim* (2018).

8. It is worth noting here—even in a footnote—that there are moves to recognize the limits of what ethnography can reasonably say (represent), and efforts to refunction ethnography so that it can legitimately say more. Some of our discussions are around how ethnography can be more than words: we want to get mixed up in the contemporary and consider roles that go beyond the representational.

from what is often assumed. Again, this is not an exhaustive list much less a logical demonstration of some “necessary” aspects of contemporary bureaucracies.

A. *Knowledgeable Uncertainty*

In contemporary data-rich domains, information (sometimes boggling amounts of information) often coexists with significant uncertainty. While uncertainty may be part of the human condition, consciousness of uncertainty is hardly constant. In hindsight, the end of the twentieth century was marked by an astonishing level of confidence. Experts knew what they knew. Catch phrases, “the end of history,” “the Washington Consensus,” and “the Great Moderation” express the spirit of the age that has passed. The attacks of September 11th and any number of computer hacks made us aware of insecurity in new ways. (The United States Department of Defense began funding efforts to develop a “science of security”). The emergence of unlooked for political developments like the Arab Spring and the insolvency of Greece and Brexit, to say nothing of the election of Donald Trump to the Presidency of the United States, made experts look foolish in real time. And most importantly, the Global Financial Crisis cast entire disciplines and core systems into doubt. Almost a full generation after September 11th, experts speak more hesitantly. They know that their conceptual frameworks are compromised, but they are not sure how, or to what extent. New paradigms are in short supply.

And yet we have more information than ever before: more capacity to surveil, collect, and process data, capacities which themselves raise problems. In such contexts, a host of conceptual and expressive tools are deployed to make sense of the world and act upon it: narratives and models, scenarios and exercises. Much of the research in Global Foresight concerns the range of tools, and what tools teach their users.

Too often social scientists have assumed that such tools are either faulty or are followed slavishly—social scientists

have tended to ask after the validity of the outputs. Validity is of course important, but bureaucratic expertise is a practice before and after it is a substantive proposition to be falsified or not. So in an age of uncertainty, another truth has emerged: the map may be necessary even if it is to some substantial but unknown degree wrong. The expert must continue to navigate. Failures of security—being caught by surprise—do not lead to admissions of error, but lead instead to more security, starting with measures designed to prevent the last failure (“closing the barn door after the horse escapes”).

For example, the complete failure of ratings agencies to warn about the risks embedded in the financial products that triggered the Global Financial Crisis has not led to the collapse of those agencies, much less the abandonment of credit rating as a practice. For reasons beyond the scope of this paper, credit rating is necessary to the custodial practices of social capitalism, and that function will be fulfilled. The truth of a given credit rating, or likely to be produced by a given methodology, are distinct questions from the institutional necessity of the practice. One may say similar things about the London Inter-bank Offered Rate.

More generally, thinking in this hesitant age is often conducted with a view to conceptual horizons that seem difficult, if not impossible to define. The most obvious such horizon is “security,” a word that emerges in field after field, not as quite the same word, but with the same problem: while insecurity is obvious in the event, whether or not something is secure—really secure?—cannot be known. Similarly, while there is an agreed upon definition of monetary stability (2% inflation in the consumer price index), there is no such consensus definition of financial stability. Experts know that they do not know as much as they used to think they did, but must proceed nonetheless.

B. *Conflicted Domains, Limited Agency, Resource Allocation*

How do the relatively senior figures in which we are primarily interested locate their authority and specify their jurisdictions within a common contemporary, albeit one that is fractured or separated into “silos”?<sup>9</sup> How do they organize their activity *vis-à-vis* other institutions; what relations do they have to manage? Who are the clients, consumers, or competitors? To whom do they ultimately answer? An old Army joke is illustrative: a bright young captain is giving a briefing about recent actions and presumed intentions of “the enemy.” A colonel curtly reminds him: “the Vietnamese are the adversary. The Air Force is the enemy.” (Services may be changed to fit the speaker’s service). Or, to put the matter in most familiar terms: how much of the work of the university is neither research, nor teaching, nor even “service” (whatever that might be felt to be), but struggles for advancement within the university itself?

Consequently, the scope of official agency is often quite narrow in practice, much more narrow than implied by words like “state,” “government,” or even “law.” Such words are abstract, unspecified, and hence unconstrained, implying freedom of action. Actual officials, however, are specified in countless ways, hemmed in, their options limited. Actual officials never see the freedom promised by the abstract “state.” As further discussed below, officials often have little capacity to do much besides what they already do, which may or may not be the right thing.

In order to keep doing what they are doing at all, officials generally must struggle for resources. Many of the activities in which we are interested do not, in themselves, make money or otherwise generate resources. A compliance

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9. It is worth noting the number of societal domains in the so-called western world, and beyond, where institutions complain of “silos,” “walled gardens,” “stove pipes,” etc. See GILLIAN TETT, *THE SILO EFFECT: THE PERIL OF EXPERTISE AND THE PROMISE OF BREAKING DOWN BARRIERS* *passim* (2015).

program is a cost center. Airport security is expensive, bothersome, and by its nature raises concerns about privacy, discrimination, and an overweening state. It is only when things go wrong that a well drafted legal document, or a weapons system, or a well-designed airport, proves that the cost was worth it. Until such failures, the erosion of the institution's justification and hence its funding is the order of the day. During a bull market, an understaffed United States Securities and Exchange Commission ("SEC") could, and did, ignore whistleblowers, and Bernie Madoff would operate a complex Ponzi scheme for years and years.

### C. *The Public*

"The public" is neither neutral nor trivial nor often clearly specified. How do officials imagine their public or audience in terms of representation, the justification given to license actions or resource allocations, or to legitimate actions that may result in risk or failure? For whom are the experts expert? What counts as success or failure? And how does the success of the enterprise affect the future of an office or the trajectory of a career—how is the official rewarded (or punished) and how are such actions publicly legitimated?

Such questions are familiar, even traditional, in the context of corporate governance. The same questions take on added urgency in security contexts, when lives are often at stake and the usual mechanisms of transparency and accountability may not be available.

### D. *The Weight of History*

Like so much work in the social sciences, Global Foresight asks after the public interest. (The project must present itself as in the service of the public, or it could not be publicly funded). "What is the public interest" reads in the present tense, but not only is the future in many of the settings that we study not only not new, it is on the contrary quite often old, and consequently constrained.

For dramatic example, the United States war in Afghanistan is now the nation's longest running campaign. The "Forever War" has become not something transitory (to be won and so ended), but the norm, the context of business. How is the future of the war envisioned? What is the nation trying to accomplish? What is our preferred scenario? During the heyday of the neocons there was talk of nation building, optimistic at the time and simply no longer credible. "Getting Bin Laden" provided a purpose, if a grisly one, but he was finally killed. Political speeches continue to rely on abstractions—security, protecting freedom, etc.—but they do not suffice to explain this policy not that. "Get the job done." But what is the job? So President Trump ran on getting out of Afghanistan; he later supported sending another 4,000 troops. But why not zero? Or 14,000? Or 24,000?<sup>10</sup>

What might a reason to continue our efforts in Afghanistan look like? It might be argued that the United States needs to be in Afghanistan, even at the cost of running a low voltage unwinnable war, because it gives us a heavy physical presence in South Central Asia. Perhaps, in their time in the same place, that is what the British believed. Afghanistan, in this view, is not a strategic objective, the graveyard of empires, so much as a tactical cost in the great game. This argument has not been made officially; it is not a public justification. Fighting a war in order to be able to threaten your neighbors is hardly a politically correct argument. At least in theory, however, one could imagine relatively principled geo-strategic reasons for the United States to maintain its presence in Afghanistan. Somebody in authority, however, needs to own this rationale, or own something like it, so that competing public expenditures, in the service of other policies, even other security policies—

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10. Perhaps there should be an acknowledgment of single-variable theory, such as opium production. See, e.g., Alfred W. McCoy, *How the Heroin Trade Explains the US-UK Failure in Afghanistan*, *GUARDIAN* (Jan. 9, 2018), <https://www.theguardian.com/news/2018/jan/09/how-the-heroin-trade-explains-the-us-uk-failure-in-afghanistan>.

troops versus carriers versus diplomats versus less versus more—may be judged. Pettifoggery, “an equilibrium tilted in our favor,” whatever that means, as commanding General John Nicholson said, simply does not suffice.

So a substantial part of the United States security community, spending nearly 5% of the gross domestic product of the world’s largest economy, operates without an articulated future, in some real sense without a strategy. Strategy is subsumed by tactics. Or, to be more precise, the future looks like the status quo, a continuation of what we’ve been doing, only maybe more (or less!) so. Getting the job done, even if the job is not specified.

As suggested already, there are profound organizational and institutional constraints on what can be seriously thought or said, or not. Scenarios are formed by people in institutions, and the institutions import form, *telos*, commitments, and a host of assumptions surprisingly independent of the world ostensibly mapped. The United States military provides security through the capacity to project force globally, making it difficult to ask what the purpose of United States engagement in Afghanistan is, and therefore making it impossible, at least under ordinary circumstances, to judge success or failure. Success or failure at what? Security, presumably—the conceptual horizon recedes. From the Pentagon’s perspective, “militarized global hegemony” is deeply synonymous with security. So nobody in the room has the authority to say, well, why don’t we devote substantial resources to thinking about doing something else? People who say things like that do not get in the room.<sup>11</sup>

The institutional drive towards reiteration is not just a military matter. Could Google seriously entertain the idea of not digitizing things? Each university, under the banner of

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11. See DAVID A. WESTBROOK, *DEPLOYING OURSELVES: ISLAMIST VIOLENCE AND THE RESPONSIBLE PROJECTION OF U.S. FORCE passim* (2011). And, if you are in the room, only certain things are thinkable and sayable. See IRVING L. JANIS, *GROUPTHINK: PSYCHOLOGICAL STUDIES OF POLICY DECISIONS AND FIASCOES passim* (1982).

“innovation,” does exactly what every other research university does, monetizing inventions, adding administrators. To generalize, in many powerful settings, consensus is often profoundly sociologically and professionally constrained. The social horizon is far shorter than the intellectual horizon.<sup>12</sup> Institutions do what they do until they are forced to do something else, or, in Darwinian fashion, they are replaced.

Thus, our inquiries are leading us from the future to the past, from power to constraint.

### III. “THOSE PEOPLE WERE A KIND OF SOLUTION”<sup>13</sup>

Phrasing the problem of politics at the present time to be “tempering power” answers as many questions as it asks. Among other things, the phrase posits a holder of power, a sovereign with (im)moral agency, in our circles often called “neoliberalism.” In this imaginary, the role of the academic (especially the progressive and engaged academic, as all academics must be) is to speak truth to power. Since our audiences tend to be small, it is good to ensure that we have somebody to address, and indeed a part to play. Through Global Foresight and otherwise, we are trying to envision other ways for the social sciences to engage political, and especially expert, bureaucratic, exercises of power.

Until such time, however, social science imaginaries of power may be expected to continue employing traditional corporal metaphors: power dwells inside the body of the sovereign (state, corporation, military, unions). Power is thus

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12. In Plato’s *The Republic* and indeed, Plato’s life, the political imagination always outstrips actual political possibility. It is why Plato says the greatest obstacle to realizing the Republic is the fact that the Philosopher doesn’t want to be King (and when he strays, as Plato himself did, he fails). It’s worth noting that Thomas Jefferson didn’t like Plato—at bottom, Plato is demarking the limitation of Enlightened politics (Plato is right, Jefferson is wrong).

13. C.P. CAVAFY, *Waiting for the Barbarians*, in C.P. CAVAFY COLLECTED POEMS 18, 19 (George Savidis ed., Edmund Keeley & Philip Sherrard trans., rev. ed. 1992).

imagined to reside in occluded spaces that are accessible only by “studying up”<sup>14</sup> or journeying into “the belly of the beast.”<sup>15</sup> Consequently, opportunities for ethnographic collaboration often succumb to demands for critical exposé, speaking truth to power from outside.

This may be changing. Recent anthropologies of expertise have contributed to expanding such imaginaries showing myriad sites where experts work (sometimes creatively, sometimes destructively) to anticipate uncertain futures or advance a particular version of society or the social “good.”<sup>16</sup> Instead of power congealed, ethnographies show problem-spaces characterized by, inter alia, thin resources and limited options, and yet a desire for thick collaboration. As examples, in central banks, one finds already-ethnographic experimentation with language and behavior,<sup>17</sup> and the ever-expanding domain of “security” is home to “bleeding edge” experimentation that targets life itself.<sup>18</sup>

As such collaborations have matured, the voices of those important figures can be foregrounded and opened for analysis. This is much of what Global Foresight is currently attempting to do. Methodologically and pedagogically, we

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14. Laura Nader, *Up the Anthropologist—Perspectives Gained from Studying Up*, in *REINVENTING ANTHROPOLOGY* 284, 284–311 (Dell Hymes ed., 1972).

15. Loïc Wacquant, *The Curious Eclipse of Prison Ethnography in the Age of Mass Incarceration*, 3 *ETHNOGRAPHY* 371, 371–97 (2002).

16. See, e.g., GARSTEN & SÖRBOM, *supra* note 7 *passim*; Dominic Boyer, *Thinking Through the Anthropology of Experts*, 15 *ANTHROPOLOGY IN ACTION* 38, 38–46 (2008); Kim Fortun, *Ethnography in Late Industrialism*, 27 *CULTURAL ANTHROPOLOGY* 446, 446–64 (2012); Douglas R. Holmes & George E. Marcus, *Cultures of Expertise and the Management of Globalization: Toward the Re-Functioning of Ethnography*, in *GLOBAL ASSEMBLAGES: TECHNOLOGY, POLITICS, AND ETHICS AS ANTHROPOLOGICAL PROBLEMS* 235, 235–52 (Aihwa Ong & Stephen J. Collier eds., 2005).

17. See HOLMES, *supra* note 4 *passim*.

18. Mark Maguire, *Counter-terrorism in European Airports*, in *THE ANTHROPOLOGY OF SECURITY: PERSPECTIVES FROM THE FRONTLINE OF POLICING, COUNTER-TERRORISM AND BORDER CONTROL* 110, 110–43 (Mark Maguire et al. eds., 2014).

now have an opportunity to pay attention to the modes through which ethnographers can engage senior managers, institutional leaders, and other powerful people, people who have the capacity to shape their domains and so our own contexts.

At least in lots of situations that matter (by no means all situations), the task does not seem to be speaking “truth” (understood as something to which the scholar has exclusive access) to “power” (understood as a morally immature yet immensely capable sovereign, an impetuous Princeling). For much of political life, the better and harder inquiries concern what might be imagined and how might such things get done, with what consequences? The scholar has the great advantage of operating at a certain remove. Her job is not at stake in the domains she studies; she can afford to listen and can speak with relative credibility. And so things might begin to make sense. In short, what is needed from the academy is sensitive critique and an eye for possibility. That is, the relatively amateurish position of the ethnographer provides the opportunity for a public (as opposed to professional) view, and just maybe, a public accounting.

Global Foresight prompts us to consider Weber, and our notions of bureaucracy more generally, in a bunch of interesting and perhaps revisionist ways. Bureaucratic “rationality,” the “iron cage” of modernity, and even “politics as vocation”—warhorses of the sociological imagination—now seem insufficiently nuanced, at least as such terms are usually used in the academy.

#### IV. CONCLUSION: A CRISIS OF LEGITIMACY

Much contemporary governance is actually done through decidedly undemocratic bureaucracies, what we might collectively call the administrative state. In this regard, at least, the liberal democratic order is much like the old Soviet order, whatever it is Russia has now, or China, or even a large corporation or university—actual governance is bureaucratic.

It is true that in liberal democracies, administration is legitimated by reference to . . . liberal democracy. Representatives are elected by “We the People,” more or less, and those representatives delegate power to administrative agencies and bureaucracies. This, at any rate, is the story we tell in any number of regulatory law classes in the United States. What the United States Environmental Protection Agency, or the SEC, or any agency does is presumptively legitimate because it is done by bureaucratic officials hired—or their bosses were hired—by people who were elected by the people, or who were nominated and approved by people who were elected by the people.

For present purposes, the point is that “liberal democracy” is not the mechanism of governance, it is the mechanism of, at most, distant oversight over the bureaucracies that actually wield power, and the mechanism of legitimation for such bureaucracies. Note that a similar dynamic plays across the European project—whatever the Commission does is said to be democratic because of the democratic process in the Member States. It need hardly be said that such legitimacy is thin, believed by few.

Harold Berman argued that the twentieth century “social” revolutions, especially the Russian Revolution, experienced in the United States in attenuated form as the New Deal, gave rise to a new understanding of the state. In this understanding, the state is directly responsible for civil society writ large—health and welfare and such. This vast expansion of the role of the state required a concomitant expansion of the apparatus of the state—the growth of the modern bureaucracy. This can be seen architecturally, in Washington D.C., if one heads northwest from the White House, in the rows of fine apartments built for civil servants in the 1930s and 1940s out Connecticut Avenue. One might also tell a parallel story about the rise of the giant modern corporation.

The changes wrought by the English, American, and French Revolutions—and a great deal of civil life and law in

between—carried with them their own legitimacy. These revolutions made the set of ideas for which “liberal democracy” is a shorthand, a kind of presumptively legitimate armature or model of governance. A judiciary ought to be independent, a legislature democratically elected, and so forth and so on. Such understandings have become part of the collective unconscious, at least in many societies.

The twentieth century social revolutions that ushered in the modern administrative state, however, were not as successful as a matter of culture and collective psychology. In particular, the social revolutions were not very successful in legitimating the administrative state. Although it came to be widely understood that the government should be responsible for education, health care, and social rights generally, the social revolution left us with little normative ordering of bureaucratic governance along the lines of the legitimating tales told for liberal democracy. Bureaucracy was and is generally seen as alienating, Kafkaesque. Weber speaks of disenchantment. Russians have endless jokes. Populists decry distant elites. Discourse gets rougher; violence may break out.<sup>19</sup>

Even within the capitals, bureaucracy is almost always legitimated not on its own terms, but instead by reference to liberal democracy, the achievements of the earlier

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19. There is one other feature here, which is the lack of specificity with which people use the state (and increasingly “governmentality”) to signal some nefarious power-configuration that cannot be tamed—it puts the systemic into social life. In part, Michel Foucault is to blame, but he recognized it at least:

As soon as we accept the existence of [a] continuity or genetic kinship between different forms of the state, and as soon as we attribute a constant evolutionary dynamism to the state, it then becomes possible not only to use different analyses to support each other, but also to refer them back to each other and so deprive them of their specificity. For example, an analysis of social security and the administrative apparatus on which it rests ends up, via some slippages and thanks to some plays on words, referring us to the analysis of concentration camps.

MICHEL FOUCAULT, *THE BIRTH OF BIOPOLITICS: LECTURES AT THE COLLÈGE DE FRANCE, 1978–79* 187–88 (Michel Senellart ed., Graham Burchell trans., 2008).

revolutions. In particular, legislatures are said to “delegate” specific regulations and other decisions to administrative agencies. The exercise of power is legitimate because decided—in the abstract and not in detail—by the duly elected representatives of the people. The legitimacy of bureaucracy is thus derivative, even parasitic.

If elections are seen to be less than genuine, as they sometimes are, and as the distance between election and bureaucracy grows, as it seemingly inevitably does, the idea that bureaucratic power is either democratic or liberal becomes harder and harder to sustain. Thus “government,” “elites,” “Europe,” and so forth are easily cast as the enemy of democracy, indeed the enemy of the people.

In other words, the “crisis of liberal democracy” is largely a crisis for the administrative contemporary state, understood operationally in bureaucratic terms. For a long time, states, that is, bureaucracies, could use stories about “liberal democracy” to legitimate themselves. In many societies and for many people, such stories no longer seem convincing. Instead, bureaucracies are seen to be self-perpetuating expressions of elite power.

What is to be done about this situation? One answer, beloved by liberals, is to “try, try again,” that is, to make bureaucracy more directly subject to liberal democracy. Require more transparency. Limit the discretion of officials. Subject administrative action to legal review. There is much to recommend this approach, which is basically the approach of administrative law in the United States, but it has its limits. Judicial review, transparency, and limitations all tend to produce more bureaucracy, more of the same complexities, delays, and inscrutable exercises of power that were the source of frustration in the first place.

The opposite approach, ostensibly beloved by many conservatives, is to do away with bureaucracy whenever possible. Shrink government! Again, there are times when this makes sense, but the limitations are equally obvious. Bureaucratic government—or bureaucratic institutions,

whether deemed public or private—are often required to make life possible in complex societies, indeed constitute complex societies.

Rather than thinking about bureaucratic legitimacy in derivative terms, perhaps bureaucracy could be at least partially legitimated by directly addressing the central philosophical problem of liberalism itself, the absence of a shared notion of the good.

Like other critics of liberalism, Alisdair MacIntyre argued that modern political and legal thought moves from substantive commitments to particular ideals of the good towards procedural commitments, and perhaps to purely formal goods, such as equality, defined in terms of such procedures. This abandonment of notions of the good and settling on procedure, preeminently contract, in fact, is what makes the writings of Hobbes, or the Peace of Westphalia, “modern” rather than medieval achievements. If the wars of religion cannot be solved by disputation or on the battlefield, perhaps we can agree to disagree.

But, as MacIntyre delineates in *After Virtue*, such peace comes at a great price.<sup>20</sup> There are things that cannot be thought or discussed without some shared notion of the goods appropriate to different things, and ultimately important to human fruition. That is, ideas of whether this or that is better for some *X* presumes a knowledge of what *X*, ideally, should be. A *telos* is an end in terms of which a thing may be understood, a watch in terms of keeping time. The watch may also be jewelry or a paperweight, but it is “timekeeper” that defines the watch as watch. This is teleology, Aristotle through Aquinas. It is classical and medieval, but by definition not modern thought.

So one way to understand bureaucratic delegation is that it implicitly creates spaces in which such thinking or such conversations can happen today, that is, spaces for

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20. ALASDAIR MACINTYRE, *AFTER VIRTUE: A STUDY IN MORAL THEORY* *passim* (3d ed. 2007).

teleological discourse within a frame of liberal democracy that explicitly denies the possibility, much less achievement of such discourse. For example, a legislature may decide that “it would be good if” we had clean water, or secure borders, or stable financial markets, or what have you, and then—in an organic statute such as the *Securities Exchange Act of 1934*—creates an institution devoted to such ends.

In this view, bureaucracy is not illiberal merely because of its distance from liberal processes and its employment of elites. Bureaucracy is illiberal in intention and in principle—it is the way liberal societies manage to have teleological political discourse. The problem—especially for diverse polities like the United States, or Europe, and perhaps less obviously, Russia or China—is that teleological discourse, agreement on the good, is hard to come by. People think differently about such things. So vague abstract standards suffice to authorize a regulatory agency, but must be ever half-articulated, somewhat disingenuous.

*Telos* is associated with the stake towards which Greek footraces were run—out to the stake, around it, and back to the start line. So the idea of “telos” has not only purpose—run fast—but a temporality built into it. The stake is a goal, the thing to be reached, the not yet achieved. The future. So, with only a little violence, we might understand teleology in terms not of purpose secured by consensus on the nature of the good, but in terms of preferred futures.

At this point it is no more than a vague hope, but our idea is that Global Foresight and similar scholarly efforts can help people understand bureaucracies as places where different futures are collectively thought and worked upon, places of—at least on good days—good faith and team effort, with a good will. Rather than Hobbes’ Leviathan, or Weber’s rationalist disenchantment and petty power politics, we might think of bureaucracy as public service towards some,

still to be articulated, notion of the collective good.<sup>21</sup> Bureaucracy humanely conceived could thus compliment and buttress those forms of government that we, somewhat misleadingly, now call liberal democracy.

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21. More abstractly, human and collective efforts to articulate futures, to avoid or ameliorate dangers and enjoy possibilities, can at least partially stand in for the religiously grounded notions of “the good” that liberalism has unsuccessfully tried to do without.