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Conscience in public life

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My argument in a nutshell is that conscience, particularly in the form of conscience-driven objection, makes a vital contribution to the interplay of freedom and political authority that constitutes the normative basis for a model of political rule I am developing in a larger project. My argument for conscience requires a fundamental rethinking of the concept of conscience as it has come to be understood in the secular contexts of Western modernity, as well as a rethinking of the concepts of freedom and authority that are dominant in the modern Western tradition of political thinking.

Let me start with "conscience". I contend that if conscience is to be given a place in contemporary public life, we need to re-articulate the concept in a way that avoids the sense of a purely private agency that it has acquired in the secular contexts of Western modernity. Over the course of Western modernity, the concept of conscience has come to be understood as something both *originating* in the individual human subject and *terminating* there. This holds not just for political theory but also for the discourse of human and civil rights.

In political theory the dominant tendency has been to think of conscience as something private, in the sense of purely internal and subjective. An example here is Hannah Arendt's rejection of conscientious objection on grounds of its allegedly nonpublic character (by contrast Arendt makes a strong case for civil disobedience, while insisting that this should not be conceptualised in terms of conscience). There has been a similar tendency towards thinking of conscience as essentially private in the discourse of human and civil rights. An example here is the European Convention for the Protection of Rights and Fundamental Freedoms. Article 9 (1) of the Convention states that

“Everyone has the right to freedom of thought, conscience and religion”. But the second clause of the article (Article 9 (2)) tells us that the right to *manifestation* of conscience is subject to "such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety and for the protection of public order." So: the voice of conscience is fine but when things become uncomfortable, please keep what it says to yourself! I consider this an impoverished way of thinking about conscience. My re-articulation of conscience seeks to do justice to its *external* and *expressive* aspects. This leads me to the view that conscience is not something to be *accommodated* by a democratic legal order, nor something *simply* to be protected by erecting a defensive wall around it, but rather something to be *fostered and facilitated*.

In my reflections in this paper I take a particular angle on conscience in democratic public life. I consider it from the point of view of obedience to political authority. While at first glance, this may seem an unusual angle, it makes sense if (unlike Arendt) we understand conscientious objection as a broad category that includes civil disobedience and whistle-blowing. Evidently, the question of political *obedience* is of pressing concern to anyone concerned with civil disobedience; it is also in my view relevant to discussion of whistle-blowing, although the relationship between whistle-blowing and political authority is less immediate than in the case of civil disobedience.

I use the word "conscience" to refer to the shifting set of ethical commitments and convictions, comprising ethical intuitions, expectations and projections, that shape a given individual human agent's identity. By "ethical" I mean relating to the good. Thus, I understand human identity as a process of formation, development and pursuit of conceptions of the good. I use this conception of human identity as the basis for a view of individual freedom that is essentially dependent on interaction with others. In other words, I conceptualise interaction with other human agents as constitutive for individual human freedom. Importantly, I construe the specifically freedom-constituting form of interaction with others as *rational accountability*, by which I mean that human

agents are in principle accountable to others for the validity of the conceptions of the good that are at play in their respective processes of identity-formation. (Evidently, my conception of human identity is not just normative; it also has a specific historical index, with deep roots in ideas that have emerged in the economic, cultural and social matrix of modernity, in particular Western modernity, and have come to be seen as general values.)

As I see it, the term "conscience" highlights important aspects of what is involved in human identity formation, and in the development of free agency. These aspects are:

- the uncertain, perhaps inherently indeterminate, character of the conceptions of the good that are formed, developed and pursued in the process of identity formation, and for which free agents are rationally accountable;
- the multiplicity of these conceptions of the good;
- the consequent challenges facing individuals in their efforts to bring disparate, and sometimes conflicting, ethical intuitions, expectations and projections into a more or less harmonious relationship with one another.

In other words, the term "conscience" draws attention to the conflicts within individual human agents, and between human agents, due to the indeterminacy and multiplicity of the conceptions of the good that are in play in the processes whereby they develop their free agency. In light of a widespread tendency to think of conscience in terms of integrity, this *dissonant* aspect of conscience seems to me especially important. I do not hold that it is wrong to think of conscience in terms of integrity; merely that it is only one part of the story and misleading without the other parts. Thus, against a widespread tendency, I use the term "conscience" to highlight dissonance as an aspect of individual freedom that becomes relevant in an immediate way for individual agents at moments when they face specific challenges in their efforts to harmonise their ethical intuitions, expectations

and projections, both internally and via-a-vis those of other agents they encounter in the world (whether collective or individual).

It is worth adding that "conscience" refers both to a form of ethical *knowledge* (a form of knowledge that is uncertain and indeterminate) and to a mode of ethical sensibility or responsiveness (to other agents, human and nonhuman, and to situations in the world). Also, that it is embodied knowledge and sensibility, with affective as well as cognitive components.

Furthermore, that since it is an integral part of identity formation, it is inherently *motivating*: it is not a purely *abstract* set of ethical norms and principles. I would add, finally, that as an integral part of individual identity, conscience has an expressive dimension that gives it a public aspect; this expressive dimension, too, has an intellectual as well as bodily component. By this I mean that expressions of conscience may entail certain bodily practices and modes of dress and behaviour but always also include the need for individuals to be rationally accountable to others for the judgments and acts on which these are based.

As mentioned initially, my focus here is on conscience from the point of view of obedience to political authority. In the broader project of which these reflections on conscience are part, I propose a conception of political authority in which there is an *internal connection* between freedom and authority; more precisely, I claim that we should think of political authority as *enhancing* individual freedom, in the sense of improving its quality. I argue that in order to do so, we have to think of freedom in a particular way, one that is out of step with the dominant traditions of modern political thinking, in both its liberal-democratic and new-republican strands. My first task, therefore, is to rethink the idea of individual freedom. A second task to show how the quality of individual freedom is improved when human individuals live in political association with others. A third task is to make the case for the usefulness of the concept of conscience in the context of the interplay of individual freedom and political authority.

Hannah Arendt writes “Authority implies an obedience in which men retain their freedom”. On this occasion I agree with her. For, in the essay in question she makes important distinctions between authority, on the one hand, and power and violence, on the other. I find these distinctions helpful, since they make it possible to distinguish further between authority and authoritarianism; I regard the latter distinction as crucial, not only in contemporary discussions of political rule but also in discussions of religion in public life. In addition, I agree with the conceptual connection she posits between authority and individual freedom. In my account of political authority I take my lead from Arendt, but move beyond her in one significant respect. The formulation “men *retain* their freedom” implies that freedom is conceptually prior to, and independent of, authority. By contrast, I want to say that authority - in particular, political authority - implies an obedience in which humans do not *retain* a freedom they have prior to political authority, but in which they *acquire* a form of freedom that complements and augments any form of freedom they could enjoy independently of political authority.

I hold that individual freedom is a central political value, perhaps even the core political value. In the broader project I argue that modern Western political thinking, in both its liberal and neo-republican strands, is indebted to a Hobbesian view of freedom as absence of frustration, leading to a conceptualisation of individual freedom as essentially prior to relations with others. The unhappy result of the Hobbesian view is that it makes political authority fundamentally detrimental to individual freedom. Though there may be compelling reasons for individuals to subject themselves freely to political authority (such as security and prosperity), the freedom they obtain through their obedience to such authority is always compromised; it is a lesser form of freedom than they would have had, if contingent circumstances had not made association with others necessary. In response to this unhappy conclusion, I make the case for an alternative conception of individual freedom, one that is inherently intersubjective: in my account, individual freedom is constituted in important

measure through interaction with others. I then show how the institution of a particular kind of legal order, essentially, the modern liberal one, together with a corresponding set of legally regulated political and social institutions, both secures the conditions for the development of human freedom and potentially improves its quality. This means, seen from one side, that individual freedom is the normative point of political authority and, seen from the other side, that political authority enables and enhances individual freedom. I shall come back to the question of freedom and political authority shortly. Before doing so, I want to outline my alternative conception of freedom.

My alternative conception of individual freedom has at its core a particular idea of autonomous agency. This has two salient features: i) autonomy as I construe it is constitutively *relational*: autonomous agency is constituted in important measure in relations with others, human and non-human, but in every case also with other human subjects; more precisely, therefore, autonomy as I construe it is constitutively *intersubjective*. ii) autonomy as I construe it involves subjective reference to ideas of the good, whose validity is *subject-transcending*; indeed, their validity is *context-transcending* in the sense that their validity is not determined by evaluative standards prevailing in any social context, actual or idealised.

Autonomy on my account has two core elements, strong evaluation and rational accountability, and has two necessary preconditions, independence and purposive rationality.

By “strong evaluation” I mean the human agent's ability to construct her identity in reflective engagement with a range of important questions about the good. Strong evaluation presupposes ability and willingness to form second-order desires and volitions. Here I draw on Charles Taylor’s view of the modern self as a “strong evaluator”, as a person who can raise the question: do I really want to be what I now am? For Taylor, to ask this question is to position oneself reflectively in relation to the good; in Taylor’s account, “the good” is that which is picked out as comparably

higher in a qualitative distinction. Some such higher goods are what Taylor calls “constitutive goods”; our actions and aspirations are *constituted* as good through their relation to these goods (examples are history, nature, art, God and freedom). Such constitutive goods, for Taylor, are *moral sources*. From this I draw the conclusion that autonomy requires *openness* to experiences of disclosure in which the power of moral sources makes itself present in a full-bodied way to an individual human agent. The *receptive* moment of autonomous agency calls in turn for the development of capacities such as flexibility, open-mindedness, sensitivity to others and imaginativeness. A further important conclusion I take from Taylor’s account of constitutive goods is that they have validity over and beyond the strong evaluator’s relation to them. This is an important step in my attempt to build a subject- and context-transcending reference point into the concept of autonomy.

The second core element of my proposed conception of autonomy is *rational accountability*. By this I mean the human agent's willingness and ability to take responsibility for her actions, judgments and self-interpretations in the sense of giving an account of them to others if called upon to do so. In my conception, ethical reasons are not *guaranteed* protection from the critical gaze of others, but rather in principle opened up to their critical judgments. I say "in principle" since there are frequently good contextual reasons for why we should *not* open up our conceptions of the good to the critical gaze of others. However, in my conception, situations of this kind, though a frequent occurrence, constitute *impediments* to individual autonomy and, hence, are not desirable from the point of view of freedom.

Rational accountability underscores the link between autonomy and receptivity, together with the capacities such as flexibility, open-mindedness, sensitivity to others and imaginativeness on which it depends. The link between autonomy and receptivity is also important from the point of view of the subject-transcending component of the concept of autonomy. By reciprocally opening up their

ethical reasons to the critical judgment of others, human agents engage in processes of intersubjective reasoning that are partly constitutive of the validity of these reasons. Importantly, it also builds an *intersubjective* moment into autonomous agency: in making rational accountability a requirement of autonomous agency, I not only incorporate a subject-transcending moment; I also tie the autonomy of individual human agents to certain kinds of relations with other human agents. It should be noted that this is a strong thesis. It goes beyond the developmental claim that human subjectivity and agency is formed in webs of social relations. The stronger claim I make by tying autonomy to rational accountability is that the *autonomy* of individual human agents is constituted in important measure through interaction with other human agents.

Strong evaluation and rational accountability presuppose *independence of spirit*. Independent-mindedness calls in turn for appropriate spaces of withdrawal, and also freedom from time constraints, as enabling conditions. Furthermore, strong evaluation and rational accountability presuppose *purposive rationality*, in the sense of an ability to set goals and pursue them. I will not say any more about independent-mindedness and purposive-rationality here. For our present discussion the main point is that freedom as I understand it is constitutively intersubjective; it comes into being only through interaction between human subjects; furthermore, since what motivates interaction with others is the individual agent's concern to ascertain the validity of her particular conceptions of the good, whereby this validity is thought of as context-transcending, such interaction cannot be limited to the inhabitants of predetermined groups but must extend in principle to everyone, everywhere.

While the view of individual freedom I propose is evidently social, in the sense that it depends on association with others, it is not yet clear why it should depend on specifically *political* association. In other words, what is the connection between individual freedom and civic freedom, the freedom we aspire to acquire as citizens?

One side of the relation is relatively straightforward: individual freedom is the *normative point* of civic autonomy: the freedom we aspire to acquire as citizens has no normative value independent of individual freedom. The other side is more complex. Why does individual freedom require civic autonomy? My answer is that it does so in two respects.

First, civic autonomy *enables* ethical autonomy, in the sense of establishing a legally recognised, formal basis from which each individual agent is equally able to develop her autonomy. The modern system of rights provides such a basis. Given that I identify "independence" as a necessary condition of autonomy, it is easy to see a system of actionable subjective liberties as an appropriate way of ensuring that each human agent is able to avoid pernicious forms of dependence on others. However, while a system of rights (or a comparable autonomy-enabling legal institution) enables autonomy, it does not itself contribute to its quality. This means that arguments for the institution of a system of rights are readily compatible with what I have called the Hobbesian view of freedom as essentially prior to, and independent of, interaction with others. In order to avoid the unhappy consequences of this view, therefore, we need a further argument for why political association enables individual freedom.

My further argument is that political association contributes to the construction of a social world that serves to actualise autonomy. In order to see how it may do this, we must bear in mind the concrete nature of human identity. Human identity is not an abstract concept. Rather, human identities are constructed in processes in which individual human agents engage reflectively with (often plural and conflicting) conceptions of the good from the point of view of the kind of persons they want to be, or become, in their everyday lives. Conceptions of the good are thus formative of their actual identities in the real world. Since human identity as I conceive it is social, conceptions of the good always also relate to the social institutions and practices that give shape and texture to their everyday lives.

It is helpful to bear this in mind when thinking about the distinctive form of freedom that individual human agents aspire to acquire when they freely obey political authority. We may call this "civic freedom". I favour a loosely Habermasian idea of civic freedom as constituted in democratic deliberative processes, in which individual citizens collectively seek to find rationally acceptable outcomes as a basis for the exercise of political authority. These outcomes are legal norms, but also actual laws and policies. Participation in such democratic deliberative processes can be described as a form of autonomy, since it allows citizens to see themselves as forming, developing and pursuing their particular conceptions of the good in interaction with others, whereby each citizen is accountable to every other citizen for her or his ethically motivated judgments and actions. In this way civic autonomy serves to construct a "common good". By this I mean it contributes to the building of a social world – a web of social institutions and practices – that each individual agent would be able to see as the actualisation of her conceptions of the good and, in this sense, as enhancing her autonomy. In other words, civic autonomy serves to establish legal norms, and actual laws and policies, which determine the shape and texture of a social world that would foster the individual freedom of each of its members.

The important point for our present purpose is that I conceptualise political authority as enhancing individual freedom, in the sense that it contributes constructively towards each citizen's subjective concern to form, develop and pursue conceptions of the good. This could be called an *ethical* reading of political authority. The immediate objection here of course is that an ethical reading of political authority is inevitably an ethical *constriction* of it. This is Habermas' worry about neo-republican models of political authority, for example. While I acknowledge the force of this objection, I believe that I can address the worry by way of my processual, dynamic and conflictual, account of individual freedom and a corresponding dynamic and conflictual account of the ethical component of political authority.

On this processual interpretation, civic freedom consists not in reaching consensus on the norms, laws and policies determining the “common good” but in engagement in the deliberative processes that produce them. Such engagement will often be conflictual and, indeed, may involve whistle-blowing or civil obedience. In the same vein, political authority is understood as a continual, often conflictual process of constituting a "common good" by way of laws, policies and norms.

The conflictual aspect of the processes that constitute individual freedom and political authority brings us back to conscience. Recall my opening remarks when I said that the word "conscience" highlights important aspects of what is involved in the construction of human identity, and of individual freedom as the core value guiding the process of identity formation. These important aspects were:

- the uncertain, perhaps inherently indeterminate, character of the conceptions of the good that are pursued in processes of identity formation, and in the development of free agency;
- the multiplicity of conceptions of the good;
- (and above all) the consequent challenges facing individuals in their efforts to bring disparate, and sometimes conflicting, ethical intuitions, expectations and projections into a more or less harmonious relationship with one another.

Nonetheless, we could ask: why do we need to retain the concept of conscience: why not jettison it entirely, along with its often unwelcome baggage, and simply describe individual freedom as an often conflictual process of identity constitution through reference to multiple conceptions of the good?

I have some sympathy with this position. Nonetheless, I think there are good reasons to retain the concept of conscience. I consider it helpful when describing the conflicts that are part of human identity formation. I also wish to emphasise its importance in public life, in particular in the form of

conscience-driven objection, for I see this as contributing vitally to the dynamic relationship between individual freedom and political authority that constitutes the basis for my normative model of political rule. Civil disobedience and whistle-blowing seem to me good examples of such conscience-driven objection. In both cases, it is well documented that protestors often appeal to conscience when accounting to others for their socially disruptive actions. A recent excellent history by Lewis Perry of civil disobedience in the USA offers numerous examples. Whistle-blowing is a more recent phenomenon and in consequence is less well explored in the academic literature. However anecdotally, at least, there is evidence that whistle-blowers typically appeal to conscience when called upon to justify their actions. Thus, for example, at a recent workshop on whistle-blowing as a form of conscientious objection that I organised in Dublin, the participating whistle-blowers described their motivation in terms that are well-captured by the vocabulary of conscience. When asked to say what motivated them to “blow the whistle”, the individuals in question, a journalist and a lawyer, appealed to a *sense of self as an ethical person* that propelled them to act in the way they did, despite knowing that their acts would most likely have a harsh impact on their personal lives, psychologically, socially and financially. The journalist put it like this: “When I look into the mirror in the morning, I want to see the face of someone who has not shied away from doing what is morally right, irrespective of the consequences”; in other words, she wanted to be seen, by herself and presumably also by others, as a person concerned to act on her conscience, even when confronted with hostility (and worse) from other persons and from the institutions of the state. The lawyer said more or less the same thing: he wanted to be someone (a “self”) who in future years would be seen by his children as someone who had done what he held to be ethically right, irrespective of the consequences for his personal life – in other words, as someone who had acted on his conscience even in the face of threats, hostility, loss of employment and financial hardship. The word “conscience” seems appropriate in such cases for it evokes the idea of a

sensibility located within the individual that is formative of her ethical identity: an “inner voice” within the individual human agent that cannot be silenced without loss of integrity. This is a further connotation of the concept of “conscience” that I wish to retain: its embodiment. The word “voice” reminds us that conscience is an embodied sensibility and, consequently, that ethics not a set of abstract principles on which a given individual decides to act in particular instances; rather it is a way of seeing the world that shapes and forms her identity; it is part of the very fabric of her being. Nonetheless, as mentioned at the outset, within Western modernity conscience has come to be seen as a purely private agency; the word “conscience” has come to refer to an inner voice that directs the individual human agent to act in certain ways that are not, in the end, matters of public concern. This of course increases the distress experienced by conscience-driven protestors. On the one hand they are likely to have internalised the dominant view that their conscience is ultimately a matter for themselves alone, while on the other hand, they are likely to feel deeply that failure *publicly* to express the voice of conscience is detrimental to their identities as ethical beings. Quite apart from the personal distress that whistle-blowers (and civil disobedients) may experience, however, the view that conscience is something essentially private prevents us from recognising the voice of conscience as a vital contribution to public life. By contrast, my alternative account allows us to recognise its indispensable contribution to the constitution of democratic authority in continuous, often conflictual processes of democratic deliberation.

As we have seen, I make individual human freedom the normative point of political association in general, and of obedience to political authority in particular. Equally importantly, I argue that individual human freedom is enhanced by political authority, depending on it for its optimal development. Thus, in my account, freedom depends on political authority and political authority can be justified ultimately only in terms of freedom. Since both freedom and political authority are thought of in processual terms, we can say, in addition, that freedom lives through obedience to

political authority and that political authority lives through the exercise of freedom by the citizens who obey it. This means that the state, an institution that claims political authority, has an existential stake in the exercise of freedom on the part of its citizens. By "existential" I mean that its very life depends on it. Since, in my account, conscience-driven objection is an integral part of the exercise of freedom, the state has an existential stake in fostering and facilitating it. Usually, this will include the need for special legal protection for the individuals and groups who engage in civil disobedience and whistle-blowing. For since their protests challenge socially established power structures and power relations, civil disobedients and whistle-blowers are particularly vulnerable to the abuse of political and social power for sectarian interests (this includes the power of religious institutions) and need special legal protection against such power.