Democratic exclusion (and its remedies?)

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Democracy, particularly liberal democracy is a great philosophy of inclusion. Rule of the people, by the people, for the people; and where "people" is supposed to mean (unlike in earlier days) everybody - without the unspoken restrictions of yesteryear: peasants, women, slaves, etc. - this offers the prospect of the most inclusive politics of human history. And yet, there is also something in the dynamic of democracy which pushes to exclusion. This was allowed full rein in earlier forms of this régime, as among the ancient poleis and republics; but today is a great cause of malaise. I want in this paper first, to explore this dynamic, and then to look at various ways of compensating for it, or minimizing it.

I

What makes the thrust to exclusion? We might put it this way: what makes democracy inclusive is that it is the government of all the people; what makes for exclusion is that it is the government of all the people. The exclusion is a by-product of something else: the need, in self-governing societies, of a high degree of cohesion. Democratic states need something like a common identity. We can see why as soon as we ponder what is involved in self-government, what is implied in the basic mode of legitimation of these states, that they are founded on popular sovereignty. Now for the people to be sovereign, it needs to form an entity and have a personality. The revolutions which ushered in régimes of popular sovereignty transferred the ruling power from a king onto a "nation", or a "people". In the process, they invent a new kind of collective agency. These terms existed before, but the thing they now indicate, this new kind of agency, was something unprecedented, at least in the immediate context of early modern Europe. Thus the notion 'people' could certainly be applied to the ensemble of subjects of the kingdom, or to the non-élite strata of society, but prior to the turn-over it hadn't indicated an entity which could decide and act together, to whom one could attribute a will. Why does this new kind of entity need a strong form of cohesion? Isn't the notion of popular sovereignty simply that of majority will, more or less restrained by the respect of liberty and rights? But this kind of decision rule can be adopted by all sorts of bodies, even those which are
the loosest aggregations. Supposing during a public lecture, some people feel the heat oppressive and ask that the windows be opened; others demur. One might easily decide this by a show of hands, and those present would accept this as legitimate. And yet the audience of the lecture might be the most disparate congeries of individuals, unknown to one another, without mutual concern, just brought together by that event.

This example shows by contrast what democratic societies need. It seems at once intuitively clear that they have to be bonded more powerfully than this chance grouping. But how can we understand this necessity? One way to see it is to push a bit farther the logic of popular sovereignty. It not only recommends a certain class of decision procedures - those which are grounded ultimately on the majority (with restrictions) - but it also offers a particular justification. Under a régime of popular sovereignty we are free, in a way we are not under an absolute monarch, or an entrenched aristocracy, for instance. Now supposing we see this from the standpoint of some individual. Let’s say I am outvoted on some important issue. I am forced to abide by a rule I am opposed to. My will is not being done. Why should I consider myself free? Does it matter that I am over-ridden by the majority of my fellow citizens, as against the decisions of a monarch? Why should that be decisive? We can even imagine that a potential monarch, waiting to return to power in a coup, agrees with me on this question, against the majority. Wouldn’t I then be freer after the counter-revolution? After all, my will on this matter would then be put into effect. We can recognize that this kind of question is not a merely theoretical one. It is rarely put on behalf of individuals, but it regularly arises on behalf of sub-groups, e.g., national minorities, who see themselves as oppressed. Perhaps no answer can satisfy them. Whatever one says, they cannot see themselves as part of this larger sovereign people. And therefore they see its rule over them as illegitimate, and this according to the logic of popular sovereignty itself.

We see here the inner link between popular sovereignty and the idea of the people as a collective agency, in some stronger sense than our lecture audience above. This agency is something you can be included by without really belonging to, which makes no sense for a member of the audience. We can see the nature of this belonging if we ask what is the answer we can give to those who are outvoted and are tempted by the argument above. Of course, some extreme philosophical individualists believe that there is no valid answer, that appeals to some greater collective is just so much humbug to get contrary voters to accept voluntary servitude. But without deciding this ultimate philosophical issue, we can ask: what is the feature of our “imagined communities” by which people very often do readily accept that they are free under a democratic régime, even where their will is over-ridden on important issues? The answer they accept runs something like this: You, like the rest of us, are free just in virtue of the fact that we are ruling ourselves in common, and not being ruled by some agency which need take no account of us. Your freedom consists in your having a guaranteed voice in the sovereign, that you can be heard, and have some part in making the decision. You enjoy this freedom in virtue of a law which enfranchises all of us, and so we enjoy this together. Your freedom is realized and defended by this law, and this whether or not you win or lose in any particular decision. This law defines a community, of those whose freedom it realizes/defends together. It defines a collective agency, a people, whose acting together by the law preserves their freedom. Such is the answer, valid or not, that people have come to accept in democratic societies. We can see right away that it involves their accepting a kind of belonging much stronger than the people in the lecture hall. It is an ongoing
collective agency, one the membership in which realizes something very important, a kind of freedom. Insofar as this good is crucial to their identity, they thus identify strongly with this agency, and hence also feel a bond with their co-participants in this agency. It is only an appeal to this kind of membership which can answer the challenge of our imagined individual above, who is pondering whether to support the monarch’s (or general’s) coup in the name of his freedom. The crucial point here is that, whoever is ultimately right philosophically, it is only insofar as people accept some such answer that the legitimacy principle of popular sovereignty can work to secure their consent. The principle only is effective via this appeal to a strong collective agency. If the identification with this is rejected, the rule of this government seems illegitimate in the eyes of the rejecters, as we see in countless cases with disaffected national minorities. Rule by the people, all right; but we can’t accept rule by this lot, because we aren’t part of their people. This is the inner link between democracy and strong common agency. It follows the logic of the legitimacy principle which underlies democratic régimes. They fail to generate this identity at their peril. This last example points to an important modulation of the appeal to popular sovereignty. In the version I just gave above the appeal was to what we might call “republican freedom”. It is the one inspired by ancient republics, and which was invoked in the American and French Revolutions. But very soon after, the same appeal began to take on a nationalist form. The attempts to spread the principles of the French Revolution through the force of French arms created a reaction in Germany, Italy and elsewhere, the sense of not being part of, represented by that sovereign people in the name of which the Revolution was being made and defended. It came to be accepted in many circles that a sovereign people, in order to have the unity needed for collective agency, had already to have an antecedent unity, of culture, history or (more often in Europe) language. And so behind the political nation, there had to stand a pre-existing cultural (sometimes ethnic) nation. Nationalism, in this sense, was born out of democracy, as a (benign or malign) growth. In early nineteenth century Europe, as peoples struggled for emancipation from multi-national despotic empires, joined in the Holy Alliance, there seemed to be no opposition between the two. For a Mazzini, they were perfectly converging goals. [1] Only later on do certain forms of nationalism throw off the allegiance to human rights and democracy, in the name of self-assertion.

But even before this stage, nationalism gives another modulation to popular sovereignty. The answer to the objector above: something essential to your identity is bound up in our common laws, now refers not just to republican freedom, but also to something of the order of cultural identity. What is defended and realized in the national state is not just your freedom as a human being, but this state also guarantees the expression of a common cultural identity. We can speak therefore of a “republican” variant and a “national” variant of the appeal to popular sovereignty, though in practice the two often run together, and often lie undistinguished in the rhetoric and imaginary of democratic societies. (And in fact, even the original “republican” pre-nationalist revolutions, the American and the French, have seen a kind of nationalism develop in the societies which issued from them. The point of these revolutions was the universal good of freedom, whatever the mental exclusions which the revolutionaries in fact accepted, even cherished. But their patriotic allegiance was to the particular historical project of realizing freedom, in America, in France. The very universalism became the basis of a fierce national pride, in the “last, best hope for mankind”, in the republic which was bearer of “the rights of man”. That’s why freedom, at least in the French case, could become a project of conquest, with the fateful results in reactive nationalism elsewhere.
that I mentioned above.) And so we have a new kind of collective agency, with which its members identify as the realization/bulwark of their freedom, and/or the locus of their national/cultural expression. Of course, in pre-modern societies, too, people often "identified" with the régime, with sacred kings, or hierarchical orders. They were often willing subjects. But in the democratic age we identify as free agents. That is why the notion of popular will plays a crucial role in the legitimating idea. [2] This means that the modern democratic state has generally accepted common purposes, or reference points, the features whereby it can lay claim to being the bulwark of freedom and locus of expression of its citizens. Whether or not these claims are actually founded, the state must be so imagined by its citizens if it is to be legitimate.

So a question can arise for the modern state for which there is no analogue in most pre-modern forms: what/whom is this state for? whose freedom? whose expression? The question seems to make no sense applied to, say, the Austrian or Turkish Empires – unless one answered the “whom for?” question by referring to the Habsburg or Ottoman dynasties; and this would hardly give you their legitimating ideas. This is the sense in which a modern state has what I want to call a political identity, defined as the generally accepted answer to the “what/whom for?” question. This is distinct from the identities of its members, that is the reference points, many and varied, which for each of these defines what is important in their lives. There better be some overlap, of course, if these members are to feel strongly identified with the state; but the identities of individuals and constituent groups will generally be richer and more complex, as well as being often quite different from each other. [3] The recent constitutional struggles in Canada provide a good example of political identity as a source of contention. No-one in Quebec doubts that its own “what for?” question must be answered in part by something like: “to promote and protect Quebec’s distinct character”, paraphrasing the wording of the Meech Lake amendment. The major point at issue was whether Canada could take this goal as a component of its own answer to this question. The rejection of Meech was widely read in Quebec as a negative answer to this question, and this predictably gave an immense lift to the Independentist movement. Whether this will be enough to carry it over the top is still uncertain at the moment of writing. [4] The close connection between popular sovereignty, strong cohesion and political identity can also be shown in another way: the people is supposed to rule; this means that the members of this `people’ make up a decision-making unit, a body which takes joint decisions. Moreover, it is supposed to take its decisions through a consensus, or at least a majority, of agents who are deemed equal and autonomous. It is not `democratic’ for some citizens to be under the control of others. It might facilitate decision making, but it is not democratically legitimate. In addition, to form a decision-making unit of the type demanded here it is not enough for a vote to record the fully formed opinions of all the members. These units must not only decide together, but deliberate together. A democratic state is constantly facing new questions, and in addition aspires to form a consensus on the questions that it has to decide, and not merely to reflect the outcome of diffuse opinions. However, a joint decision emerging from joint deliberation does not merely require everybody to vote according to his or her opinion. It is also necessary that each person’s opinion should have been able to take shape or be reformed in the light of discussion, that is to say by exchange with others. This necessarily implies a degree of cohesion. To some extent, the members must know one another, listen to one another and understand one another. If they are not acquainted, or if they cannot really understand one another, how can they engage in joint deliberation? This is a matter which concerns the very conditions of
legitimacy of democratic states. If, for example, a sub-group of the ‘nation’ considers that it is not being listened to by the rest, or that they are unable to understand its point of view, it will immediately consider itself excluded from joint deliberation. Popular sovereignty demands that we should live under laws which derive from such deliberation. Anyone who is excluded can have no part in the decisions which emerge and these consequently lose their legitimacy for him. A sub-group which is not listened to, is in some respects excluded from the “nation”, but by this same token, it is no longer bound by the will of that nation. For it to function legitimately, a people must thus be so constituted that its members are capable of listening to one another, and effectively do so; or at least that it should come close enough to that condition to ward off possible challenges to its democratic legitimacy from sub-groups. In practice, more than that is normally required. It is not enough nowadays for us to be able now to listen to one another. Our states aim to last, so we want an assurance that we shall continue to be able to listen to one another in the future. This demands a certain reciprocal commitment. In practice a nation can only ensure the stability of its legitimacy if its members are strongly committed to one another by means of their common allegiance to the political community. Moreover, it is the shared consciousness of this commitment which creates confidence in the various sub-groups that they will indeed be heard, despite the possible causes for suspicion that are implicit in the differences between these sub-groups. In other words, a modern democratic state demands a `people’ with a strong collective identity. Democracy obliges us to show much more solidarity and much more commitment to one another in our joint political project than was demanded by the hierarchical and authoritarian societies of yesteryear. In the good old days of the Austro-Hungarian Empire, the Polish peasant in Galicia could be altogether oblivious of the Hungarian country squire, the bourgeois of Prague or the Viennese worker, without this in the slightest threatening the stability of the state. On the contrary. This condition of things only becomes untenable when ideas about popular government start to circulate. This is the moment when sub-groups which will not, or cannot, be bound together, start to demand their own states. This is the era of nationalism, of the break-up of empires. I have been discussing the political necessity of a strong common identity for modern democratic states in terms of the requirement of forming a people, a deliberative unit. But this is also evident in a number of other ways. Thinkers in the civic humanist tradition, from Aristotle through to Arendt, have noted that free societies require a higher level of commitment and participation than despotic or authoritarian ones. Citizens have to do for themselves, as it were, what otherwise the rulers do for them. But this will only happen if these citizens feel a strong bond of identification with their political community, and hence with those who share with them in this. From another angle again, because these societies require strong commitment to do the common work, and because a situation in which some carried the burdens of participation and others just enjoyed the benefits would be intolerable, free societies require a high level of mutual trust. In other words, they are extremely vulnerable to mistrust on the part of some citizens in relation to others, that the latter are not really assuming their commitments – e.g., that others are not paying their taxes, or are cheating on welfare, or as employers are benefitting from a good labour market without assuming any of the social costs. This kind of mistrust creates extreme tension, and threatens to unravel the whole skein of the mores of commitment which democratic societies need to operate. A continuing and constantly renewed mutual commitment is an essential basis for taking the measures needed to renew this trust. The relation between nation and state is often considered from a unilateral point of view, as if it were always the nation which sought to
provide itself with a state. But there is also the opposite process. In order to remain viable, states sometimes seek to create a feeling of common belonging. This is an important theme in the history of Canada, for example. To form a state, in the democratic era, a society is forced to undertake the difficult and never-to-be-completed task of defining its collective identity.

II

So there is a need for common identity. How does this generate exclusion? In a host of possible ways, which we can see illustrated in different circumstances.

1. The most tragic of these circumstances is also the most obvious, where a group which can’t be assimilated to the reigning cohesion is brutally extruded; what we have come today to call “ethnic cleansing”. But their are other cases where it doesn’t come to such drastic expedients, but where exclusion works all the same against those whose difference threatens the dominant identity. I want to class forced inclusion as a kind of exclusion, which might seem a logical sleight of hand. Thus the Hungarian national movement in the nineteenth Century tried forcefully to assimilate Slovaks and Romanians; the Turks are reluctant to concede that there is a Kurdish minority in their Eastern borderlands. This may not seem to constitute exclusion to the minority, but in another clear sense, it amounts to this. It is saying in effect: as you are, or consider yourselves to be, you have no place here; that’s why we are going to make you over. Or exclusion may take the form of chicanery, as in the old apartheid South Africa, where millions of Blacks were denied citizenship, on the grounds that they were really citizens of “homelands”, external to the state.

All these modes of exclusion are motivated by the threat that others represent to the dominant political identity. But this threat depends on the fact that popular sovereignty is the regnant legitimacy idea of our time. It is hard to sustain a frankly hierarchical society, in which groups are ranged in tiers, with some overtly marked as inferior or subject, as with the millet system of the Ottoman Empire.

Hence the paradox that earlier conquering people were quite happy to coexist with vast numbers of subjects which were very different from them. The more the better. The early Muslim conquerors of the Ommeyad empire didn’t press for conversion of their Christian subjects, even mildly discouraged it. Within the bounds of this unequal disposition, earlier empires very often had a very good record of “multi-cultural” tolerance and coexistence. Famous cases come down to us, like that of the Mughals under Akbar, which seem strikingly enlightened and humane, compared to much of what goes on today in that part of the world and elsewhere. It is no accident that the twentieth Century is the age of ethnic cleansing, starting with the Balkan Wars, extending in that area through the aftermath of the First World War, and then reaching epic proportions in the Second World War, and still continuing – to speak only of Europe. The democratic age poses new obstacles to coexistence, because it opens a new set of issues which may deeply divide people, those concerning the political identity of the state. In many parts of the Indian sub-continent, for instance, Hindus and Muslims coexisted in conditions of civility, even with a certain degree of syncretism, where later they would fight bitterly. What happened? The explanations often given include the British attempt to divide and rule, or even the British mania for census figures, which first made an issue of who was a
majority where. These factors may have their importance, but clearly what makes them vital is the surrounding situation, in which political identity becomes an issue. As the movement grows to throw off the alien, multi-national Empire and to set up a democratic state, the question arises of its political identity. Will it simply be that of the majority? Are we heading for Hindu Raj? Muslims ask for re-assurance. Gandhi’s and Nehru’s proposals for a pan-Indian identity don’t satisfy Jinnah. Suspicion grows, demands for guarantees, ultimately separation. Each side is mobilized to see the other as a political identity threat. This fear can then sometimes be transposed, through mechanisms we have yet to understand, into a threat to life; to which the response is savagery and counter-savagery, and we descend the spiral which has become terribly familiar. Census figures can then be charged with ominous significance, but only because in the age of democracy, being in the majority has decisive importance.

2. Then there is the phenomenon we can sometimes see in immigrant societies with a high degree of historic ethnic unity. The sense of common bond, and common commitment has been for so long bound up with the common language, culture, history, ancestry, and so on, that it is difficult to adjust to a situation where the citizen body includes lots of people of other origins. People feel a certain discomfort with this situation, and this can be reflected in a number of ways. In one kind of case, the homogeneous society is reluctant to concede citizenship to the outsiders. Germany is the best known example of this, with its third generation Turkish “Gastarbeiter”, whose only fluent language may be German, whose only familiar home is in Frankfurt, but who are still resident aliens. But there are subtler, and more ambivalent ways in which this discomfort can play out. Perhaps the outsiders automatically acquire citizenship after a standard period of waiting. There even may be an official policy of integrating them, widely agreed on by the members of the “old stock” population. But these are still so used to functioning politically among themselves, that they find it difficult to adjust. Perhaps one might better put it, that they don’t quite know how to adjust yet; the new reflexes are difficult to find. For instance, they still discuss policy questions among themselves, in their electronic media and newspapers, as though immigrants were not a party to the debate. They discuss, for instance, how to gain the best advantage for their society of the new arrivals, or how to avoid certain possible negative consequences, but the newcomers are spoken of as “them”, as though they weren’t potential partners in the debate.

You will have guessed that the example I’m thinking of here is my native Québec. I don’t mean to exaggerate the phenomenon. It is changing, and I have great hopes that it will go on improving. It took time to learn the reflexes of inclusion, but they are being learned. Moreover, the problem is somewhat worse among extreme nationalists; it’s not a universal phenomenon. It’s worse among them, because nationalists cherish a dream, that of independence, which virtually no-one not a “Québécois de souche” shares, for understandable psychological-historical reasons. It’s only natural that this strand of the Québec ideological spectrum should have more difficulty opening itself to outsiders, as the catastrophic speech of our ex-Premier after the last referendum showed. This example helps to illustrate just what is at stake here. I don’t want to claim that democracy unfailingly leads to exclusion. That would be a counsel of despair, and the situation is far from desperate. I also want to say, as the slogan above indicated, that there is a drive in modern democracy towards inclusion, in the fact that government should be by **all** the people. But my point is, that alongside this, there is a standing
temptation to exclusion, which arises from the fact that democracies work well when people know each other, trust each other, and feel a sense of commitment towards each other.

The coming of new kinds of people, into the country, or into active citizenship, poses a challenge. The exact content of the mutual understanding, the bases of the mutual trust, and the shape of the mutual commitment, all have to be redefined, reinvented. This is not easy, and there is an understandable temptation to fall back on the old ways, and deny the problem; either by straight exclusion from citizenship (Germany), or by the perpetuation of “us and them” ways of talking, thinking, doing politics. And the temptation is the stronger, in that for a transition period, the traditional society may have to forgo certain advantages which came from the tighter cohesion of yore. Québec clearly illustrates this. During the recent agonizing attempts by the government to cut back the galloping budget deficits, the Premier organized “summits” of decision-makers from business, labour, and other segments of society. Not only the fact that this seemed worth trying, but the atmosphere of consensus, at least the earnest striving towards an agreement; these reflected the extremely tightly-knit nature of Québec society as it has come down to us. The decision-makers still are disproportionately drawn from old stock Quebeckers, quite naturally at this stage of development. The operation might not be as easy to repeat twenty years from now. So much for historically ethnically homogeneous societies. But we have analogous phenomena in mixed societies. Think of the history of the United States, how successive waves of immigrants were perceived by many Americans of longer standing as a threat to democracy and the American way of life. This was first of all the fate of the Irish from the 1840s. Then immigrants from South and eastern Europe were looked askance at in the last decades of the Century. And of course, an old-established population, the Blacks, when they were given citizen rights for the first time after the Civil War, were in effect excluded from voting through lots of the Old South, until the Civil Rights legislation of our time.

Some of this was blind prejudice. But not all. In fact, the early Irish, and later European immigrants, couldn’t integrate at once into American WASP political culture. The new immigrants often formed “vote banks” for bosses and machines in the cities; and this was strongly resented and opposed by Progressives and others, concerned for what they understood to be citizen democracy. Here again, a transition was successfully navigated, and a new democracy emerged, in which a fairly high level of mutual understanding, trust and commitment (alas, with the tragic exception, still, of the Black/White divide) was recreated – although arguably at the price of the fading of the early ideals of a citizen republic and the triumph of the “procedural republic”, in Michael Sandel’s language. [5] But the temptation to exclusion was very strong for a time; and some of it was motivated by the commitment to democracy itself.

3. The cases I’ve been looking at are characterized by the arrival from abroad, or the entry into active citizenship of new people, who have not shared the ethnic-linguistic culture, or else the political culture. But exclusion can also operate along another axis. Just because of the importance of cohesion, and of a common understanding of political culture, democracies have sometimes attempted to force their citizens into a single mould. The “Jacobin” tradition of the French Republic provide the best-known example of this. Here the strategy is, from the very beginning, to make people over in a rigorous and uncompromising way. Common understanding is reached, and supposedly forever
maintained, by a clear definition of what politics is about, and what citizenship entails, and these together define the primary allegiance of citizens. This complex is then vigorously defended against all comers, ideological enemies, slackers, and, when the case arises, immigrants. The exclusion operates here, not in the first place against certain people already defined as outsiders, but against other ways of being. This formula forbids other ways of living modern citizenship; it castigates as unpatriotic a way of living which would not subordinate other facets of identity to citizenship. In the particular case of France, for instance, a certain solution to the problem of religion in public life was adopted by radical Republicans, one of extrusion; and they have had immense difficulty even imagining that there might be other ways to safeguard the neutrality and comprehensiveness of the French state. Hence the over-reaction to Muslim adolescents wearing the headscarf in school.

But the strength of this formula is that it managed for a long time to avoid or at least minimize the other kind of exclusion, that of new arrivals. It still surprises Frenchmen, and others, when they learn from Gérard Noiriel [6] that one French person in four today has at least one grandparent born outside the country. France in this Century has been an immigrant country without thinking of itself as such. The policy of assimilation has hit a barrier with recent waves of Maghrébains, but it worked totally with the Italians, Poles, Czechs, who came between the Wars. These people were never offered the choice, and became indistinguishable from “les Français de souche”.

It has been argued that another dimension of this kind of inner exclusion has operated along gender lines; and this not only in Jacobin societies, but in all liberal democracies, where without exception women received voting rights later than men. The argument is that the style of politics, the modes and tone of public debate, and the like, have been set by a political society which was exclusively male, and that this has still to be modified to include women. If one looks at the behaviour of some of our male-dominated legislatures at question time, resembling as they sometimes do, a boisterous boys’ school at recreation, it is clear that there is some truth to this point. The culture of politics couldn’t fully include women without changing somewhat, even though we may be uncertain just how.

III

I hope I have made somewhat clear what I mean by the dynamic of exclusion in democracy. We might describe it as a temptation to exclude, beyond that which people may feel because of narrow sympathies or historic prejudice; a temptation which arises from the requirement of democratic rule itself for a high degree of mutual understanding, trust and commitment. This can make it hard to integrate outsiders, and tempt us to draw a line around the original community. But it can also tempt us to what I have called “inner exclusion”, the creation of a common identity around a rigid formula of politics and citizenship, which refuses to accommodate any alternatives, and imperiously demands the subordination of other aspects of citizens’ identities. It is clear that these two modes are not mutually exclusive. Societies based on inner exclusion may come to turn away outsiders as well, as the strength of the Front National, alas, so well illustrates; while societies whose main historical challenge has been the integration of outsiders may have recourse to inner exclusion in an attempt to create some unity amid all the diversity.
The present drama of English Canada (or Canada outside Québec) illustrates this only too well. Partly because of a sense of fragmentation which some Canadians feel in face of the rapid diversification of Canada’s population, partly because this sense of fragmentation is often intensified rather than diminished by Québec’s affirmation of difference, partly because of age-old Canadian angst about national identity in face of the traditional seeming security on this score of the USA, attitudes have become steadily more rigid in English Canada towards any possible accommodation of Québec’s difference during the last 10 years. Canada’s tragedy is that, at the moment where it is becoming more and more necessary to do something about Québec’s status in the federation, it is also becoming politically less and less possible to do anything meaningful. Quite specifically, there is a growing rigidity around the political formula, visible for instance, in the insistence that all Provinces must be treated identically, a subsumption of this uniformity under the principle of citizen equality. This kind of uniformity is, in fact, very foreign to our history. It is very doubtful if the federation could ever have got going if we had tried to operate like this in the past. But it comes forward now, because it seems to many the only way to recreate trust and common understanding between diverse regions, some of whom bear a grudge against others. This rigidity will make it difficult not only to accommodate Québec, but also to make space for aboriginal groups who are calling for new modes of self-rule.

Now the obvious fact about our era is that first, the challenge of the new arrival is becoming generalized and multiplied in all democratic societies. The scope and rate of international migration is making all societies increasingly “multicultural”; while second, the response to this challenge of the “Jacobin” sort, a rigorous assimilation to a formula involving fairly intense inner exclusion, is becoming less and less sustainable. This last point is not easy to explain, but it seems to me an undeniable fact. There has been a subtle switch in mind-set in our civilization, probably coinciding with the 1960s. The idea that one ought to suppress one’s difference for the sake of fitting in to a dominant mould, defined as the established way in one’s society, has been considerably eroded. Feminists, cultural minorities, homosexuals, religious groups, all demand that the reigning formula be modified to accommodate them, rather than the other way around. At the same time, possibly connected to this first change, but certainly with its own roots, has come another. This is an equally subtle change, and hard to pin down. But migrants no longer feel the imperative to assimilate in the same way. One mustn’t misidentify the switch. Most of them want to assimilate substantively to the societies they have entered; and they certainly want to be accepted as full members. But they frequently want now to do it at their own pace, and in their own way, and in the process, they reserve the right to alter the society even as they assimilate to it.

The case of Hispanics in the United States is very telling in this regard. It’s not that they don’t want to become anglophone Americans. They see obvious advantages in doing so, and they have no intention of depriving themselves of these. But they frequently demand schools and services in Spanish, because they want to make this process as painless as they can for themselves, and because they welcome such retention of the original culture as may fall out of this process. And something like this is obviously in the cards. They will all eventually learn English, but they will also alter somewhat the going sense of what it means to be an American, even as earlier waves of immigrants have. The difference with earlier waves is that Hispanics seem to be operating now with the sense of their eventual role in co-determining the culture, rather than this arising only retrospetively, as with
earlier immigrants. The difference between the earlier near-total success of France in assimilating East Europeans and others (who ever thought of Yves Montand as Italian?), and the present great difficulty with Maghrébains, while it reflects a whole lot of other factors – e.g., greater cultural-religious difference, and the collapse of full employment – nevertheless must also reflect, I believe, the new attitude among migrants. The earlier sense of unalloyed gratitude towards the new countries of refuge and opportunity, which seemed to make any revendication of difference quite unjustified and out of place, has been replaced by something harder to define. One is almost tempted to say, by something resembling the old doctrine which is central to many religions, that the earth has been given to the human species in common. A given space doesn’t just unqualifiedly belong to the people born in it, so it isn’t simply theirs to give. In return for entry, one is not morally bound to accept just any condition they impose.

Two new features arise from this shift. First, the notion I attributed to Hispanics in the USA has become widespread, viz., the idea that the culture they are joining is something in continual evolution, and that they have a chance to co-determine it in the future. This, instead of simple one-way assimilation, is more and more becoming the (often unspoken) understanding behind the act of migration. Secondly, we have an intensification of a long-established phenomenon, which now seems fully “normal”, that is, where certain immigrant groups still function morally, culturally and politically as a “diaspora” in relation to their home country. This has been going on for a long time – think, for instance, of the “Polonia” in all the countries of exile. But whereas it was frowned on, or looked askance at, by many people in the receiving society, or where toleration for it depended on sympathy for the cause of the home country (the Poles were lucky in this respect); whereas people muttered darkly in the past about “double allegiance”, I believe now that this kind of behaviour is coming to be seen as normal. Of course, there are still extreme variants of it which arouse strong opposition, as when terrorists use the receiving countries as a base for their operations. But that is because these manifestations shock the dominant political ethic, and not because of the intense involvement in the country of origin. It is becoming more and more normal and unchallenged to think of oneself and be thought of as, say, a Canadian in good standing, while being heavily involved in the fate of some country of origin.

**IV**

The upshot of the above discussion could be expressed this way: democracies are in a standing dilemma. They need strong cohesion around a political identity, and precisely this provides a strong temptation to exclude those who can’t or won’t fit easily into the identity which the majority feels comfortable with, or believes alone can hold them together. And yet exclusion, besides being profoundly morally objectionable, also goes against the legitimacy idea of popular sovereignty, which is to realize the government of all the people. The need to form a people as a collective agent runs against the demand for inclusion of all who have a legitimate claim on citizenship. This is the source of the malady; what are the remedies? These are a lot harder to find. But I believe that an important first step is to recognize the dilemma. For this allows us to see that it can very often only be dealt with by struggling towards a creative redefinition of our political identity. The dilemma after all arises because some often historically hallowed definition can’t accommodate all who have a moral claim to citizenship. And yet the reaction to this is all too often to render this original identity even more absolute and unchallengeable, as
though it somehow belonged essentially to a certain people with its territory and history that it be organized under this and no other identity.

This appeal to the origins can occur in both “republican” and “national” registers. In the first case, the particular features of our republican constitution are made absolute and sacrosanct, in face of all evidence that they may be impeding the search for a new common ground. Thus there is a certain “Jacobin” fundamentalism which comes to the surface in France, in reaction to certain demands to accommodate the growing Muslim minority. The wearing of headscarves in school by Muslim teen-agers is judged to infringe the principles of “laïcité”, as laid down in the French republican tradition. The general principle of state neutrality, indispensable in a modern diverse democracy, is metaphysically fused with a particular historical way of realizing it, and the latter is rendered as non-negotiable as the former.

As a panic reaction, this is understandable even if disastrous. Faced with the unfamiliar and disturbing, one reaches for the age-old sources of common identity. But the reaction is facilitated by the belief that this original constitution was meant to resolve the issue of political identity once and for all, that somehow it precluded in advance any need for illegitimate exclusion. This amounts to a denial that the potential for the dilemma is built into democracy itself. It cannot be conjured once and for all by the ideal constitutional settlement. Even if this perfectly suits the population at the time of founding (and what constitution ever has?), the shifts in personal identity over time, through migration and moral or cultural change, can bring the established political identity out of true with the people who are supposed to live within it. This kind of fundamentalism attempts to deny history.

We are more familiar with this reaching back to sources in the national register; its destructive consequences are more immediately evident. The claim is that a certain territory belongs as of right to a certain historical ethnic, or cultural, or linguistic, or religious identity, regardless of what other people are living there, even if they’ve been there for centuries. And so Hungarian nationalists laid claim to the lands of the Crown of St Stephen in the nineteenth Century, and the Bharatya Janata Party feels it can and must impose a “Hindutva” identity on all the immense diversity of India today. Even more gruesome examples of the working out of this kind of claim have been visible in recent years in the territory of the former Yugoslavia.

The reflex of many people in liberal societies to this kind of thing is to blame “nationalism” and not democracy. But this is to take too quick a way with it. To start with, ‘nationalism’ has many senses. The original idea, for instance in its Herderian form, was a liberating one, and highly consonant with democracy. We don’t have to force ourselves into an artificial homogeneity in order to live together in peace. We can recognize different “national” (Volk) identities, even give them political expression, because each in this act of recognition acknowledges that it is not universal, that it has to co-exist with others which are equally legitimate. Herderian nationalism is a universalist idea, all Völker are equally worthy of respect; it can be used (and was so used by Herder) to defend Slavic people against German encroachment, as well as to defend German culture against the hegemonic claims of French. You don’t have to accept French as a universal language in order to live in freedom with guaranteed rights. The political identity under which you live can reflect you too. This demand allows of an impeccably democratic
What this pushes us towards is the idea which I believe is the key to facing the dilemma of exclusion creatively, the idea of sharing identity space. Political identities have to be worked out, negotiated, creatively compromised between peoples who have to or want to live together under the same political roof (and this coexistence is always grounded in some mixture of necessity and choice). Moreover, these solutions are never meant to last for ever, but have to be discovered/invented anew by succeeding generations. The idea of nationalism which creates bitter trouble is that defined by Gellner: the “political principle, which holds that the political and national unit should be congruent” [7]. According to this idea, the problem of how to share identity space can be solved by giving each nation its territory, on which it can erect its sovereign state. The utopian, even absurd nature of the proposal immediately strikes the eye. Quite apart from the thousands of groups which can claim the status of “nation”, even giving each its parcel of land would still leave each pocket handkerchief state with national minorities, so intextricably mixed are the world’s peoples. The utopian scheme could only be carried through by massive ethnic cleansing. It is clear that this idea will only “work” by making certain nations more equal than others. These are to get their states, and the rest are to live in their shadow as minorities, if they are allowed to live at all. This idea of nationalism can only be applied by negating its own universalist ethical basis. It is this distorted idea which justifies the claim by historical national identities to monopoly control over “their” territory. In the worst cases, this ends in a Yugoslav scenario. In the best cases, as with the Parti Québécois, and the more liberal wing of the B.J.P., minorities are to be guaranteed their rights, but the idea of sharing identity space, actually negotiating some compromise political identity with them, is vigorously rejected. Just as with “republican” forms of constitutionalism above, the unreal idea of a definitive solution to the problem of democratic co-existence is blinding people to the effective situation on the ground in almost all democratic states. The hope is once again to arrest history, to fix it in some original moment when our people attached themselves to this territory. And similarly, what offers itself as a solution to the democratic dilemma can only exacerbate it to the point of bitter conflict. But the belief that the problem here is “nationalism” sans phrase can accredit another utopian solution, that of a political identity grounded purely in “republican” elements, without any reference to national or cultural identities. In face of the prospect of having to bring together so many differences of culture, origin, political experience, and identity, the temptation is natural to define the common understanding more and more in terms of “liberalism”, rather than by reference to the identities of citizens. The focus should be totally on individual rights and democratic and legal procedures, rather than on the historical-cultural reference points, or the ideas of the good life by which citizens define their own identities. In short, the temptation is to go for what Sandel calls the “procedural republic”. Already this has been evident in the Canadian case. I mentioned above that there has been a tendency in English Canada, in face of growing cultural diversity, to make certain aspects of the political culture central to the national identity. The main element which has been chosen for this has, not surprisingly, been the Charter or Rights, introduced into the Constitution by the 1982 Act. The underlying idea is that, whatever differences distinguish us, as Canadians we can share a certain schedule of rights, and certain procedures for enforcing them.
What does the procedural republic have going for it? A number of things, some of them tendencies in our philosophical tradition. I have discussed this elsewhere, [8] but I think we can both see and understand the drift away from ethics of the good life towards ethics based on something else, allegedly less contentious, and easier to carry general agreement. This partly explains the popularity of both utilitarianism, and Kantian-derived deontological theories. Both manage to abstract from issues of what life is more worthy, more admirable, more human, and to fall back on what seems solider ground. In one case, we count all the preferences, regardless of the supposed quality of the goals sought. In the other, we can abstract from the preferences, and focus on the rights of the preferring agent. The act of abstraction here benefits from three important considerations. First, in an age of (at least menacing, if not actual) skepticism about moral views, it retreats from the terrain where the arguments seem the most dependent on our interpretations, the most contentious and incapable of winning universal assent; whereas we can presumably all agree that, other things being equal, it is better to let people have what they want, or to respect their freedom to choose. Second, this refusal to adopt a particular view of the good life leaves it to the individual to make the choice, and hence it fits with the antipaternalism of the modern age. It enshrines a kind of freedom. Third, in face of the tremendous differences of outlook in modern society, utilitarianism and Kantian deontology seem to promise a way of deciding the issues we face in common without having to espouse the views of some against others.

Now the first two considerations are based on philosophical arguments – about what can and cannot be known and proved, and about the nature of freedom, respectively. They have been much discussed, debated, and often refuted by philosophers. But the third is a political argument. Regardless of who is ultimately right in the battle between procedural ethics and those of the good life, we could conceivably be convinced on political grounds that the best political formula for democratic government of a complex society was a kind of neutral liberalism. And this is where the argument has mainly gone today. The shift between Rawls I and Rawls II is a clear example of this. His theory of justice is now presented as “political, not metaphysical”. This shift perhaps comes in part from the difficulties that the purely philosophical arguments run into. But it also corresponds to the universal perception that diversity is a more important and crucial dimension of contemporary society. This comes, as I argued above, partly from the actual growth in diversity in the population, through say, international migration; and partly from the growing demand that age-old diversities be taken seriously, put forward for instance, by feminists.

So the issue now could be: what conception of freedom, of equality, of fairness, and of the basis for social coexistence are – not right in the abstract, but feasible for modern democratic societies? How can people live together in difference, granted that this will be in a democratic régime, under conditions of fairness and equality? The procedural republic starts right off with a big advantage. If in your understanding of the citizen’s roles and rights, you abstract from any view of the good life, then you avoid endorsing the views of some at the expense of others. Moreover, you find an immediate common terrain on which all can gather. Respect me, and accord me rights, just in virtue of my being a citizen, not in virtue of my character, outlook, or the ends I espouse, not to speak of my gender, race, sexual orientation, etc. Now no-one in their right mind today would deny that this is an important dimension of any liberal society. The right to vote, for instance, is indeed accorded unconditionally; or on condition of certain bases of citizenship, but
certainly in a way which is blind to differences of the range just quoted. The question we have to ask is whether this can be the only basis for living together in a democratic state, whether this is the valid approach in all contexts, whether our liberalism approaches perfection the more we can treat people in ways which abstract from what they stand for and others don’t.

Now it can look right off, that whatever other reasons there might be for treating people this way, at least it facilitates our coming together, and feeling ourselves to be part of a common enterprise. What we do all have in common is that we make choices, opt for some things rather than others, want to be helped and not hindered in pursuing the ends that flow from these options. So an enterprise that promises to further everyone’s plan, on some fair basis, seems to be the ideal common ground. Indeed, some people find it hard to imagine what else could be. But this retreat to the procedural is no solution to the democratic dilemma. On the contrary, it very often itself contributes to activating it. We can readily see this in two ways.

First, the condition of a viable political identity is that people must actually be able to relate to it, to find themselves reflected in it. But in some cases, the preservation of an historical cultural identity is so important to a certain group that suppressing all mention of it in our answer to the “what for?” question cannot but alienate that group. The protection and promotion of its “distinct society” cannot but figure in the common identity of Quebec as a political entity, whether in the Canadian federation or outside. Refusing all mention of this in the canonical definitions of the Canadian identity can only increase the feeling of many Quebeckers that they have no place in the federation. This is not a solution to the conundrum of a common Canadian political identity; it is rather the source of the greatest contemporary threat to it.

Second, the procedural route supposes that we can uncontroversially distinguish neutral procedures from substantive goals. But it is in fact very difficult to devise a procedure which is seen as neutral by everyone. The point about procedures, or charters of rights, or distributive principles, is that they are meant not to enter into the knotty terrain of substantive difference in way of life. But there is no way in practice of ensuring that this will be so. The case of the Muslim teen-agers wearing the headscarf in school in France is eloquent in this regard. “Laïcité” is supposedly a neutral principle, not favouring one religion or world-view over another. On this basis the head-scarves were refused, but other French girls often wear, e.g., a cross around their necks, and this was unchallenged. In a “secular” society, this is presumably often just a “decoration”. The presumption is valid enough, but the religious “invisiblity” of the cross reflects France as a “post-Christian” society, following centuries of Christian culture. How can one expect to convince Muslims that this combination of rulings is neutral? The mistake here is to believe that there can be some decision whose neutrality is guaranteed by its emerging from some principle or procedure. This breeds the illusion that there is no need to negotiate the place of these symbols, and hence to confront the actual substantive differences of religious allegiance in the public square. But no procedure can dispense from the need to share identity space.

Something similar holds of the American case. What is meant to be a procedural move, neutral between all parties, the separation of church and state, turns out to be open to different interpretations, and some of these are seen as very far from neutral by some of
the important actors in the society. The school prayer dispute is a case in point. One could argue that insistence on a procedural solution – in this case a winner-take-all constitutional adjudication – is exactly what will maximally inflame the division; which indeed, it seems to have done. Moreover, as against a political solution, based on negotiation and compromise between competing demands, this provides no opportunity for people on each side to look into the substance of the other’s case. Worse, by having their demand declared unconstitutional, the losers’ programme is delegitimated in a way which has deep resonance in American society. Not only can we not give you what you want, but you are primitive and unAmerican to want it. In short, I would argue that the current American Kulturkampf has been exacerbated rather than reconciled by the heavy recourse in that polity to judicial resolution on the basis of the constitution.

V

My argument here has been that a full understanding of the dilemma of democratic exclusion shows that there is no alternative to what I have called sharing identity space. This means negotiating a commonly acceptable, even compromise political identity between the different personal or group identities which want to / have to live in the polity. Some things will, of course, have to be non-negotiable, the basic principles of republican constitutions – democracy itself and human rights, among them. But this firmness has to be accompanied by a recognition that these principles can be realized in a number of different ways, and can never be applied neutrally without some confronting of the substantive religious-ethnic-cultural differences in societies. Historic identities can’t be just abstracted from. But nor can their claims to monopoly status be received. There are no exclusive claims to a given territory by historic right. What does this mean in practice? I don’t have space to go into this here (phew!). But also there are not too many things that one can say in utter generality. Solutions have to be tailored to particular situations. But some of the political mechanisms of this sharing are already well-known, e.g., various brands of federalism, as well as the design of forms of special status for minority societies, such as we see today in Scotland and Catalonia, for instance. But many other modalities remain to be devised for the still more diverse democratic societies of the 21st Century.

In the meantime, it will have helped, I believe, if we can perceive more clearly and starkly the nature of our democratic dilemma, since the hold of unreal and ahistorical solutions over our minds and imagination is still crippling our efforts to deal with the growing conflicts which arise from it. If this paper contributes a little to this end, it will have been worth the writing.

Footnotes

1. And in fact, the drive to democracy took a predominately "national" form. Logically, it is perfectly possible that the democratic challenge to a multi-national authoritarian régime, e.g., Austria, Turkey, should take the form of a multi-national citizenship in a pan-imperial "people". But in fact, attempts at this usually fail, and the peoples take their own road into freedom. So the Czechs declined being part of a democratized Empire in the Paulskirche in 1848; and the Young Turk attempt at an Ottoman citizenship foundered, and made way for a fierce Turkish nationalism.
2. Rousseau, who laid bare very early the logic of this idea, saw that a democratic sovereign couldn't just be an "aggregation", as with our lecture audience above; it has to be an "association", that is, a strong collective agency, a "corps moral et collectif" with "son unité, son moi commun, sa vie et sa volonté". This last term is the key one, because what gives this body its personality is a "volonté générale". , Book I, chapter 6.


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