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**Wesson Lectures: Democracy's Scope: Lecture 1: What makes a *demos*?**

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I've chosen as my topic within the general field of democratic theory the question of democracy's *scope*, and I should begin by immediately clearing up a possible ambiguity in that title. You might take the question of scope to be a question about the range of issues that are properly subject to democratic decision: which questions that arise in our political life should be decided by democratic means and which should not. Are there, for example, areas of life that are not properly subject to collective decision at all – areas that must remain private, left entirely to the discretion of individual people? Are there other questions that, although rightfully a matter of collective decision, should not be decided *democratically*, at least not in any straightforward sense, but should instead be decided by judges, say, or other independent arbiters? Are there certain basic rights, for example, which properly set limits to democracy's scope? These questions about scope have been much discussed, but I am not going to add anything to the discussion in these lectures. I am going to attempt to tackle a quite different question about scope – namely the question of what should be the *constituency* for any given exercise of democracy. If a decision, or a series of decisions, is going to be made democratically, who ought to be included in the deciding body and who ought to be excluded? This question, I think, has been much less discussed, and you might wonder why. After all, who decides seems just as important as what can be decided. Well, perhaps it is unanswerable, in which case my efforts here are all going to be in vain. Alternatively, perhaps the answer is so obvious that it requires no great theoretical effort to get to it. Let's start with this second possibility and consider an example that seems to support it.

Suppose, then, that the heating system in this room were to become jammed on the highest setting, so that several minutes into the lecture, members of my audience began to feel uncomfortably warm. As jackets begin to come off and shirts are

unbuttoned, my chair calls a halt to the lecture and announces that there is an alternative lecture room ten minutes walk away that he/she knows is free. Is the heat bad enough to make the hike (not to mention the break in the sublime logic of the lecturer's argument) worthwhile? What would we do? Well of course we'd ask for a show of hands and decide accordingly. Everyday democracy at work, and no problems about the relevant constituency.

But why is the example so simple? First, because the constituency is easily defined, in this case by the physical boundaries of the room, which determine who hears the lecture and who doesn't (since, alas, no-one is hanging out of the windows, there are no ambiguous or marginal cases). Second, because the impact of the decision falls entirely on that same constituency: you, the audience, and you alone, feel the heat if the decision is to stay, and suffer the inconvenience of having to move if the decision goes the other way; there are no third parties involved. Third, because the nature of the decision is such that a simple majority vote is obviously the right procedure to use. The decision affects all of the audience in roughly the same way: everyone feels the heat, and everyone would rather carry on listening to the lecture here than have to move, other things being equal. If there were a subset of people who were abnormally sensitive to heat, or on the other hand a subset that had restricted mobility, then things would be different: in the extreme case we might narrow the constituency by giving them a veto over the decision.

What the example brings out is that in any instance of democratic decision-making, there are always going to be three elements: the constituency making the decision, the procedure they use to make it, and what we can call the impact group – the set of people whose behaviour or interests will be affected by the decision that is reached. In general, we shouldn't expect the constituency and the impact group to coincide. Sometimes, the impact of a decision will be felt only by a subset of those who make it; more often, perhaps, it will have an external impact on those who do not belong to the constituency. We have only to tinker a bit with the lecture hall example to introduce some third parties who are going to be inconvenienced if we decide to move – let's say the student drama group who were hoping to use the other theatre for their rehearsal if it was free. As we get closer to real politics, it's going to be harder to

think of democratic decisions that have no impact except on the group that makes them.

What's interesting to note here, from a normative point of view, is how the three elements – constituency, procedure, impact group – interact with each other. There's an obvious sense in which we can't settle on the relevant constituency and procedure without considering the impact group. If a decision is going to make a big impact on some people's lives, shouldn't they have some control over who makes the decision and how it is made; shouldn't they indeed be included in the constituency? That's one way of approaching the problem of democracy's scope. Start with the question of who will be affected by a decision or a series of decisions and work backwards from that. That approach has achieved some popularity under the heading of the affected interests principle, and I shall be discussing it as I go along. However as we shall see it faces some pretty severe problems, and so we should notice that another approach is possible too, namely to start with the constituency and then work forwards. In other words we identify a set of people as having a privileged status as democratic decision-makers, and then we ask: how can their decision-procedures be constituted so as to constrain the impact they have on people outside of the constituency itself. We recognize that democratic decisions will usually have an external impact, but rather than adjusting the constituency, we focus on the procedures – for example we might place limits on the range of things that can be decided by that body, or we might demand that they should consult with the external impact group before deciding, and so forth.

Intuitively, perhaps, the working backwards approach – look at who is going to bear the impact of a decision and form the democratic constituency accordingly – seems the obvious one to use, so why might we prefer the working forwards approach? We would do so if we thought that a democratic constituency needs, in general, to have certain properties, so that a randomly assembled group of individuals will not do (you, the audience, might be Ok if it's just a question of whether to stay or whether to move, but I wouldn't for a moment trust you to decide anything else...). That, in turn, is going to depend on our theory of democracy – our theory of how a democratic system is supposed to work, encompassing not only such questions as which formal

procedures to use, but also, for example our ideas about whether democracy should be deliberative, and of so under what conditions that is possible, and so forth.

In this first lecture, I want to examine this question of the properties that a democratic needs to have under the heading ‘what makes a *demos*?’ If we assume for a moment that a *demos* is something more than just a collection of individuals placed in the position of having to make a decision – you don’t become a (real) *demos* merely because the heating jams and you have to decide collectively whether to stay put or move – then the question becomes ‘what more?’ And this is not just a theoretical question. A number of contested issues in practical politics depend on the answer we give. Think, for example of the question of secession, still very much alive in a number of contemporary states. If we say that secession, to be legitimate, has to be democratically endorsed – the people must vote to leave their existing state – then the question ‘what counts as a people, for this purpose?’ becomes crucial. Or consider the vexed question of democracy in Europe. Whether the EU is or can become a genuine democracy, as opposed to a confederation of many separate democracies, turns to some extent at least on the answer we give to the much-debated question ‘does a European *demos* exist?’ That, as we shall see, is only in part an empirical question; it depends also on normative assumptions about the conditions that would have to be satisfied to form 493 million people into a single *demos*. Or finally, think about the even bigger question of global democracy. Here, it is widely agreed, there is no such thing, at present and for the foreseeable future, as a global *demos*; but some argue we can nonetheless find many global *demoi*, formed around particular policy issues or in particular territorial spaces, who taken together may make it possible to have something we can call democracy at global level. But again the question arises, are the groups in question really of a character that allows us to attach that label to them? What distinguishes a limited *demos* from an interest or lobby group, for example? Hence, I hope, the relevance of the question I am raising.

I suggested a moment ago that the answer to the question ‘what makes a *demos*?’ will depend on the background theory of democracy we are using. There are many varieties of democratic theory, obviously, but for this purpose I am going to draw a fairly familiar distinction between two of these, which I’ll call radical and liberal democracy (we can also call them R-democracy and L-democracy, since Rousseau is

often regarded as the patron saint of the first conception and Locke of the second). I shall sketch in their most salient features briefly, but the point is not to engage in the old debate about whether one should be an R-democrat or an L-democrat – most of us will probably opt for some middle position in that debate – but to see how it bears on the question of democracy's *scope*.

For radical democrats, then, the idea of collective self-determination stands at the heart of democratic theory. Democracy is a system in which people come together to decide matters of common concern on the basis of equality, and the aim is to reach decisions that everyone can identify with – can see as in some sense *their* decision. This cannot mean, obviously, that the decision reached represents everyone's first choice – if that degree of consensus existed, a political procedure for making decisions would hardly be needed. But the process by which the decision is reached – process here encompassing not only formal voting procedures and the like, but also the manner in which the debate between alternatives is conducted – is such that each person feels that they have had a chance to influence the outcome, and that the outcome itself is at least a fair compromise between competing interests or rival convictions. Rousseau tried to put the icing on the cake when he suggested that those who find themselves in the minority ought to conclude that they had got it wrong – the general will, as he would put it, was correctly expressed by the majority – but even if we think that this is overdoing things, the underlying thought is that members of the *demos* should be able to see themselves as joint authors of the decisions that are taken.

Liberal democrats, by contrast, see the underlying purpose of democracy in quite different terms, as essentially a protective device that allows individuals to guard themselves against domination. The threat of domination can come from many different directions, but its primary source is the state, which must therefore be constituted in such a way that the threat is minimised. Democratic institutions serve the purpose of constraining and controlling power. Liberal democracy, as its name suggests, inherits a liberal tradition which for several centuries was less than democratic, in the sense that the relevant protective functions were entrusted to a smaller group of politically active citizens whose job it was to contest the power of rulers. Liberal theorists came up with a long list of arguments explaining why the

interests of large groups of people – women, servants, propertyless workers, and so forth – could be adequately protected by middle-class (and sometimes also middle-aged) males. These arguments look spurious now, and in the course of time liberals abandoned them one by one, but the mistake they made was empirical rather than logical. They assumed an identity of interest between men and women, masters and servants, the old and the young, which we can see now never existed. But if you start from the assumption that democracy (or as the older liberals would have said, representative government) is a device to guard people from domination, then the checking body needs only to include a sufficiently large set of people that all relevant interests are included. Democracy proper arrives when it is understood that the only reliable way to achieve this is to extend political rights to everyone.

That concludes my thumbnail sketch of R-democracy and L-democracy. The question now is what qualities each of these conceptions requires the *demos* to possess. Take R-democracy first. For this to be feasible, the *demos* must possess a sufficiently high degree of unity, homogeneity and stability. It must be a democratic *community* in a fairly strong sense. Why is this? Let me suggest four qualities that a group of people must possess if they are going to be able to practise democracy in the radical sense.

The first is sympathetic identification. Those who belong to the would-be *demos* must identify sufficiently with the remainder of the group that they are motivated to try to accommodate their interests and their convictions. In other words, they do not regard those others simply as obstacles to the pursuit of their own ends, in the way, say that two people bidding against each other in an auction will do. The attitude they take has to be of the form: I recognize that those people have interests that are different from mine, or beliefs that I do not share, but I regard them nonetheless as members of full standing of my political community, and I care enough about them to try to reach an agreement that everyone can live with if at all possible. This goes some way beyond recognizing their human rights, an attitude that one should adopt towards all human beings merely as such. The stronger form of recognition that R-democracy requires depends upon mutual identification. What the *basis* of that identification must be is a further question that I will return to in a moment.

The second quality that the *demos* must share is underlying agreement on ethical principles. There must be some basic convictions that members hold in common, forming a kind of bank that that can be drawn on to resolve practical disputes. It is not necessary that there should be full agreement on every principle; moreover there will almost inevitably be disagreement about the relative weight that different principles carry. What is necessary is everyone should be able to distinguish between appeals to principle that are prima facie valid – because the principle invoked is indeed one that the political community recognizes – and appeals that are to purely private convictions (or to interests dressed up as convictions). Unless that condition is met, no democratic deliberation will be possible, because the idea of making arguments that other people are bound to take on board – either accepting them or responding to them – will have no purchase.

The third necessary quality is interpersonal trust. Members of the *demos* must have sufficient confidence in one another to play by the rules of the democratic game. This means first of all abiding by the decisions that are reached even in cases where you find yourself on the losing side. But trust has an equally important role to play in the process leading up to the decision. Participants have to believe that the arguments others put forward are sincerely made – that their makers really believe in the principles they cite to justify their positions. There is no point in my arguing with you if every time I counter one of your arguments – produce evidence, say, to show that it does not hold water – you shift your ground and appeal to some other principle. If I see you doing that, then I'll think that you're not really deliberating at all. You've already decided on the position you want to hold, and you're simply behaving instrumentally in order to win support by invoking principles that you don't really believe in. Moreover, if we are going to move towards a fair compromise between rival views, then once again trust between the parties is needed: no-one is going to be willing to make the first concession unless she believes that the other side will reciprocate.

Finally, the *demos* must be a stable group whose members come together repeatedly over time to decide upon a range of different issues. Stability is important because of its connection with sincerity and trust. Decisions taken at one point can serve as reference points for future decisions, and participants can be expected to behave

consistently. So if I proclaim my adherence to a particular principle as part of my argument for decision 1, then I can be held to that principle later on when decisions 2 and 3 are made. This gives me a considerable incentive to be sincere. Moreover stability over time allows greater scope to reciprocity. Some decisions are of a nature that admits of no compromise on any particular occasions. If we have to choose a President or a Chair, we cannot split the difference between a man and a woman, a Christian and a Muslim. But we can agree to elect a man now and a woman next time and so forth.

Putting all this together, we should expect an R-democracy to have a well-defined membership and to be ethically and culturally somewhat homogenous. Looking ahead to my next talk, we should also expect it to guard its borders rather fiercely against incomers who might disrupt its identity and lower its level of trust. This may make R-democracy an unappealing option for us. But how do things stand if we look towards L-democracy? What kind of *demos* does liberal democracy require?

The requirements here initially look quite different. Recall that the main idea is that democracy serves as a barrier to protect against domination. A major worry, therefore, is that the *demos* itself might become an agent of domination, or more precisely that a majority group within the *demos* might become such an agent vis-à-vis the minority – the fear, in other words, of majority tyranny that so disturbed liberals such as Mill and Tocqueville. From this point of view, cultural homogeneity, valued by R-democrats as a source of identification and trust, looks much less appealing. Unless *complete* cultural homogeneity can be achieved, it is better from an L-democrat's point of view to have a society made up of many cultural minorities, so that there is much less chance of a majority forming with a will to oppress a particular minority. Ideally, cleavages within the *demos* should be cross-cutting, so that people who find themselves on opposite sides of the argument on one occasion will find themselves on the same side on the next.

It is also desirable, from an L-democratic point of view, for the *demos* to be segmented: rather than having one body, direct or representative, to make all of the decisions, it is preferable to have a number of interlinked sites of decision, so that a majority in any one place is likely to find itself countered by an opposing majority

elsewhere. This, as you will no doubt recall, was Madison's argument in his famous defence of large republics in *Federalist* Number 10. Distinguishing sharply between democracy and republic, Madison argued that pure democracies – meaning what I have been calling R-democracies - 'have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property, and have, in general, been as short in their lives as they have been violent in their deaths' (Hamilton *et al* 1948, 45). The great advantage of a federal republic, therefore, was that it made it near to impossible for a majority faction to form across the republic as a whole: 'the influence of factious leaders may kindle a flame within their particular states, but will be unable to spread a general conflagration through the other states' (Hamilton *et al* 1948, 47). Representatives elected by different constituencies within each state would serve as checks on each other, dampening down the passions that made pure democracies turbulent.

It would be wrong to conclude, however, that for an L-democrat the best recipe for a *demos* is the more division the better. Instead what is needed is the right mixture of unity and pluralism. The argument for some degree of unity was again well expressed in a classic text, this time the chapter on nationality in J.S. Mill's *Representative Government*. Mill was not of course strictly speaking a democrat; he belonged to the earlier liberal tradition that defended representative institutions as an indispensable means of protecting the people from arbitrary government, but he did not favour universal and equal suffrage, for reasons that do not concern us here. The chapter I am referring to, therefore, is couched in terms of the conditions that are necessary for political freedom, and Mill's focus is on nationality as the source of the unity that can support free institutions. As he puts it 'free institutions are next to impossible in a country made up of different nationalities' (Mill 1972, 361). He understands nationality in terms of the common sympathies which may exist among a group of people, leading them to co-operate more willingly with one another, and to wish collectively to be self-determining – sympathies which, he makes clear, may arise from many different sources. Why is this national sentiment so essential to maintaining political freedom? Mill gives three reasons.

The first is that in the absence of common nationality there cannot be a 'united public opinion'. Free governments must be kept in check by public opinion, but for that to

happen there has first to be public opinion in the sense of a prevailing consensus on political questions which is known (both by the government and by the people themselves) to be shared across the political community. The main prerequisite for this is a common language, but beyond this shared cultural instruments: ‘books, newspapers, pamphlets, speeches’ must be common property across the country if people are to understand what others are thinking.

Second, the population must have a stronger desire to check government than to use the powers of government to benefit the group they belong to by exploiting or oppressing other groups. This depends on their sympathy with, or hostility to, those other groups. Mill doesn’t give examples, but religious freedom seems to illustrate his argument well. For this freedom to be safeguarded in a society divided, say, between Catholics and Protestants, each group has to care more about protecting religious liberty in general than in suppressing the other group’s. But this requires fellow-feeling across the religious divide, and Mill’s argument is that such sympathy must for the foreseeable future at least derive from the common bonds of nationality.

Finally Mill applies this second argument to the particular case of the army, claiming that the governments of multi-national states are always able to use troops drawn from one nationality to suppress the liberty of others. Thus in 1848 the Austrian Empire could use Bohemian forces to crush the nascent liberal regime in Vienna, and Croats and Serbs to suppress the revolution in Budapest. Without common nationality, the loyalty of the army can only be owed to the crown (or other central institution of the state) and ‘such armies have been the executioners of liberty throughout the whole duration of modern history’ (Mill 1972, 362).

I have used Mill’s argument to illustrate how even someone who stands well towards the liberal end of the democratic spectrum is sensitive to the need for a *demos* that, although pluralistic in many other respects (and nobody could accuse Mill of failing to recognize the value of cultural pluralism), is also unified along certain key dimensions – the *demos* must speak the same language, participate in the same public culture, and feel a sympathetic concern for one another’s interests. As we move towards the radical end of the spectrum, however, these requirements for democratic unity become more stringent still. It is not an accident that R-democracy was born in

city states whose citizens were bound together, physically and culturally, far more tightly than their counterparts in the world today. Later political philosophers drawn to that conception had to find a substitute that could do the work that the city walls had done for the original democracies and republics, and nationhood was the obvious candidate. Rousseau, for example, when designing a constitution not for the ideal world described in his *Social Contract*, but for the far more problematic real-world case of Poland, advocated an extensive battery of measures to reinforce Poles' sense of national identity, going far beyond anything that the liberal Mill would have contemplated: a system of public education with an exclusively national focus, compulsory participation in public games, spectacles where national virtues are displayed (horsemanship especially in the Polish case), accompanied by a ban on cosmopolitan entertainments like theatre and opera, a citizen militia, etc etc.

Looking at the question more analytically, it is easy to see how having a shared national identity will serve the four qualities that, as I noted earlier, R-democrats in particular will see as essential to a well-functioning *demos* – namely sympathetic identification, a shared ethos, mutual trust, and stability of membership. I have argued for the connection in past writings and don't want to repeat myself today. Instead I want to look at the other side of the argument, the possibility of constituting a *demos* on some basis other than common nationality. The impetus for this arises because of two rather obvious defects in nationality as the source of democratic unity. The first is the presence, in more or less every existing nation-state, of substantial minorities of people who do not identify themselves as belonging to the nation that, historically, has underpinned the state in question. If democratic citizenship is tied to nationality, then these people will not see themselves, and will not be seen by the majority group, as full-fledged citizens, and this, evidently, violates the commitment to political equality that R-democrats especially regard as fundamental. The second defect is that if we tie democracy to nationality, then this immediately pre-empts the possibility of forms of democracy emerging at transnational, or even global, level; but, many think, the problems we face today – too obvious and numerous to list – make it essential that such new forms of democracy are created ASAP.

So the quest is on for a way of constituting the *demos* that does not rely on the culturally thick, but territorially narrow, idea of national identity, but that can

nonetheless produce a genuine *demos*, not a mere aggregate of individuals. Could there be a purely political source of unity that would transform such an aggregate into a *demos*? Might people, in other words, identify with a set of political institutions in such a way as to generate shared loyalties, trust, etc, but without the problematic cultural baggage that nationality brings with it – problematic if we are trying to create an inclusive *demos*, and one that need not be tied to a particular geographical territory? The most popular candidate for this office today is ‘constitutional patriotism’ as defended especially by Jurgen Habermas, and I want to spend the time remaining today engaging with this idea as an answer to the question ‘what makes a *demos*?’.

It’s worth asking, to begin with, where Habermas is to be placed on the radical-liberal axis that I’ve been using to analyse conceptions of democracy. His own answer is that he stands somewhere in the middle, as evidenced by the fact that he presents his theory of democratic procedure as a third alternative to ‘liberal’ and ‘republican’ conceptions, which correspond quite closely to I’ve been calling L-democracy and R-democracy (Habermas 1996, 295-302). In particular, he distances himself from republicanism on the grounds that it relies on a unified body of citizens legislating together in some central arena: the laws and policies that emerge are supposed to embody a single democratic will that has resulted from deliberation among these citizens. Habermas finds this an implausible conception of democracy for a complex and culturally plural society. Instead, he proposes what he calls the ‘discourse’ theory of democracy whereby the political system is supposed to respond to multiple spheres of deliberation, some formally organized (e.g. within parliamentary bodies) and others existing informally in civil society. However it would be wrong to suppose that the discourse theory can sidestep the question of the character of the citizen body as a whole. For after all the various separate discourses have taken place, there must presumably be an authoritative decision, and a law or policy that follows from this, and this has to be recognized by everybody as democratically enacted. There must, therefore, be shared norms that can adjudicate between proposals emanating from different deliberative spheres; citizens must have sufficient mutual understanding and trust that they can the outcome of discourses of which they do not form part as sincere; and so forth. Indeed, as we shall see when we look briefly in a moment at Habermas’ ideas about the conditions for European-wide democracy, he recognizes

the need for an inclusive *demos* in terms that would have been quite familiar to J.S. Mill.

What, then, of constitutional patriotism as the source of unity in a modern democratic state? The idea of constitutional patriotism emerged in post-war Germany in reaction to events of Nazi period – Germans needed to draw a line between themselves and those historical events, and so developed idea that patriotic loyalty was owed not to the nation in usual sense but to the democratic constitution and the principles it contained (Müller 2006). Habermas, however, has tried to use the idea in a more general way, not merely tied to the specific context of post-war Germany. Interestingly, he accepts the historical argument linking democracy to the nation-state. As he puts it at one point, ‘only a national consciousness, crystallized around the notion of a common ancestry, language, and history, only the consciousness of belonging to “the same” people, makes subjects into citizens of a single political community – into members who can feel responsible *for one another*’ (Habermas 1999, 113). But he also believes that this connection can be, and must be, superseded in the contemporary world, as nation-states are challenged by multicultural diversity within, and the forces of globalisation without. What, then, can replace national consciousness as a source of political unity that can motivate citizens to engage in democratic politics and promote social justice?

Habermas’ answer is of course ‘constitutional patriotism’, but interpreted in a somewhat different way from the original German idea. According to him, the loyalty is not to the constitution as such, as a formal written document, but to the principles that are embodied in the constitution – principles that are not themselves unique to the society in question, since they are common ground between different republican constitutions, but that are given a specific national interpretation in each society. This interpretation is worked out through political debate among citizens, a debate that is not seen as reaching a definitive conclusion, so the focus of loyalty is not exactly *an* interpretation of constitutional principles, but rather a set of rival interpretations, or what Habermas at one point calls ‘a common *horizon* of interpretation’. Quite how this is meant to unite citizens into a single body remains unclear, and Habermas concedes that ‘this notion of constitutional patriotism appears to many observers too weak a bond to hold together complex societies’ (Habermas

1999, 118). He also notes that constitutional patriotism has an historical dimension: constitutional principles cannot be interpreted except against the particular historical background of the society in question, and disputes about that history feed into the rival interpretations of the principles, as they did in the German case with which Habermas is most familiar.

We find, then, that for Habermas constitutional patriotism does not so much mean loyalty to a constitution as a formal document interpreted by a Constitutional Court as loyalty to a political culture with a significant historical dimension to it (involving competing understandings of national history). The constitution itself is regarded as an expression of this political culture, and cannot be understood apart from it. This being so, we might ask how constitutional patriotism differs from familiar forms of nationalism in which the constitution may well feature as a central element in national identity (as it does most obviously in the American case). If constitutional patriotism is supposed to be a 'thinner' identity, in what way is it thinner? The answer, for Habermas, appears to be that it eliminates the ethnic elements of national identity that he regards as problematic in contemporary multicultural societies. But for this argument to hold, Habermas has to present a distorted picture of contemporary national identities, exaggerating the degree to which they are ethnically homogeneous in character. In other words, he seriously underestimates the extent to which, in liberal societies at least, forms of national identity have emerged that are flexible in their content and thereby open to people from many different ethnic backgrounds (to an American audience this is no doubt obvious; it is always important in reading Habermas to keep in mind just how far his thinking is conditioned by German experience). Equally, it would be a mistake to regard constitutions as culture-free zones, so to speak. They are, after all, always written in the national language of the state they govern, not in Esperanto; and insofar as the meaning of constitutional principles has to be understood in the light of a particular national history, as Habermas agrees, we cannot escape the fact that national histories are chiefly histories of whichever people or peoples have occupied the land for centuries past. So it is unclear in the end what distinguishes constitutional patriotism from the position often now described as liberal nationalism. In the realm of culture, both appear to face the same limits: they can seek to free citizen identity from religious and other elements of private culture that inevitably discriminate among citizens, but they cannot eliminate

everything that is peculiar to the society – since both sides in the debate agree that loyalty given merely to abstract constitutional principles, liberty, equality, democracy and so forth, is not sufficient to create the kind of political community that democratic politics requires.

Habermas hopes not only that constitutional patriotism can serve as a more inclusive source of unity within existing states, but also that it might ground transnational democracy, most notably in the case of Europe. This particular idea looks rather less plausible now that the plan for a European Constitution has run into the sand (following rejection by voters in France and the Netherlands), but even if the plan were to be revived at some future time, then, as Habermas freely admits ‘a constitution can only function if the democratic process that it itself initiates actually comes into being’ (Habermas, 2001, p. 102). And he immediately goes on to specify some of the conditions for this to happen at European level: the development of a proper European party system; a European public sphere with interest groups, NGOs, and citizens’ movements; and transnational mass media able to operate in a common language. What is interesting to note here is how far Habermas’ conditions mirror those laid down by J. S. Mill as necessary conditions for ‘free institutions’ to operate. We could paraphrase Habermas as saying that there cannot be European democracy, even if a Constitution is finally enacted, until there exists a ‘united public opinion’ in the sense that people across Europe are consulting the same media sources, arguing about the same issues, and getting involved in organizations that cross national boundaries.

This should come as no surprise, if the argument I have been developing about democracy’s scope is valid. My claim has been that every democracy needs a *demos*, not just in the trivial sense that we need to know who is entitled to participate and who isn’t, but in the more significant sense that a viable *demos* must have certain qualities to function effectively. How demanding a condition this is will depend on how far you travel down the road between liberal and radical democracy; Habermas, I have suggested, wants to travel quite far. Despite his acknowledgement of pluralism and complexity, and his critique of classical republicanism, he still has ambitious standards of democratic legitimacy. This, then, stands in tension with his avowed aim of thinning down the identity that holds the *demos* together – ‘avowed’ because

although constitutional patriotism at first looks as though it is significantly thinner than nationhood, on closer inspection the gap begins to narrow if not disappear altogether.

The upshot is that we seem to have a choice to make about democracy's scope: we can widen the scope, let more people in, be more relaxed about what it takes to be a citizen, but then settle for a weaker, liberal version of the democratic process. Or we can aim for strong, radical democracy, but then we have to be prepared to narrow the scope, police the boundaries, and so forth. I shall be picking up this dilemma in the second lecture, when I shall discuss the conflicting pressures that democracies face towards inclusion and exclusion.

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