
The Paradoxes of Civil Society

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abstract: Emerging from recent social and political struggles, the notion of 'civil society' can and should be transformed into a sociological concept on both the theoretical and empirical level. This means going beyond the Marxist and social democratic understandings of civil society as a world of selfish economic interests, on the one hand, and beyond the liberal equation of civil society with legal protections of individual rights, on the other. Civil society should be conceptualized as a realm of solidarity, a 'we-ness' that simultaneously affirms the sanctity of the individual and these individuals' obligations to the collectivity. The solidary sphere, in principle and in practice, can be differentiated not only from markets and states but from such other noncivil spheres as religion, family and science. Yet differentiation does not preclude tension and conflict over boundaries. Civil solidarity is 'compromised' and 'distorted' by these boundary relations, and also by competing, more primordial definitions of community, such as race, language, nation, territory, and ethnicity. While civil society can be identified with 'universal reason' in a philosophical sense, in sociological terms it must be articulated by more concrete and identity-related symbolic constructs. For this reason, sociological approaches to civil society must be tied to cultural sociology, to theories of symbolic codes and narratives.

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The Role of Social Solidarity

We need to develop a model of democratic societies that pays more attention to solidarity and social values – to what and how people speak, think and feel about politics – than most social science theories do today. We

need a theory, in other words, that is less myopically centered on social structure and more responsive to the ideas that people have in their heads and to the experiences and interactions they inform.

If we move from the empirical arena of social science to the normative plane of democratic theory, we might expect more sensitivity to such issues of intention, interpretation and choice. If we do, however, we will be disappointed. Even normative democratic theory, it seems, is written primarily with Thrasymachus in mind. It, too, focuses primarily on the differentiation, or pluralization, of power. Democratic theorists too often understand democracy merely in terms of political arrangements and narrowly defined institutional structures. They write about the specific patterns of sanctions and rewards that prevent the abuse of power and rule by the few – the separation of powers, legal rights, procedural guarantees and voting regulations.¹

Such arrangements are, indeed, of the utmost importance. They define the formal properties of democracy. Without the rule of the people that Aristotle described, without the liberal state propounded by Locke and Mill, without the dispersion of government power recommended by Montesquieu and Madison, there would be no democracy worth the name. In a world where the idea of democracy has too often been merely an ideological subterfuge for levelling dictatorship – as in the ‘democratic people’s republics’ of communist lore – we would do well to remember such formal distinctions, which can have such tremendous substantive effects.

It is no accident, then, that the virtues of this purely formal approach most recently have been renewed and emphasized by theorists on the post-Marxist Left who are making an effort to save the concept and practice of socialism from the clutches of totalitarian thought. The most ardent and articulate Italian champion of democracy, Norberto Bobbio, uses formal democratic principles to extend and defend socialism. Defining democracy as majority rule in a liberal state, he emphasizes that ‘rights ... are the necessary precondition for the mainly procedural mechanisms, which characterize a democratic system, to work properly,’ and he calls for such rights to enter the workplace (Bobbio, 1987: 24). While Bobbio has defended this position through decades of sectarian debate, John Keane is an English post-Marxist who has emphasized the socialism/democracy connection more recently, defining democracy in a formal manner as ‘a differentiated and pluralistic system of power’ (Keane, 1988a: 3). Agnes Heller is the most distinguished contemporary follower of Lukacs, the Marxist who most famously dismissed formal rationality as reification. In the wake of her experiences in Hungarian society, Heller, too, has come to endorse a formalist position (Heller, 1988). In France, there is the recent writing of the long-time anti-Stalinist militant, Claude Lefort, who speaks about the ‘disentangling of the

sphere of power, the sphere of law and the sphere of knowledge’. Lefort argues that such differentiation rests upon an ‘institutional apparatus [that] prevents governments from appropriating power for their own ends’ and guarantees that ‘the exercise of power is subject to the procedures of periodical redistributions’ (Lefort, 1988: 19).

These invocations of the formal requisites of democracy are particularly important in the context of the pessimistic, indeed often antagonistic, attitudes toward the possibility of democratic society which, at least until very recently, permeated the structuralist thrust of critical social science. When Lefort attacks Marx’s failure to understand the substantive effects of formal mechanisms, for example, he is attacking the sophistic discourse that has increasingly permeated Western critical thought under the influence of thinkers like Marcuse and Foucault. Lefort writes that Marx was unable to comprehend the ‘recognized function of the written law, the status that it acquires in its separation from the sphere of power’ (Lefort, 1986: 252–3). The contrast that Lefort makes between his own insistence on the differentiation of power and knowledge and Foucault’s conflation of them is particularly important (Lefort, 1986: 18).

The arrangements to which these discussions refer fall under the rubric of what can be called structural differentiation. Yet, however important structural differentiation is, democracy depends on much, much more. To speak exclusively in terms of formal institutional mechanisms ignores the social realm that gives to independent political structures their most critical social support.

Too often the non-political world that supports formal democratic mechanisms has been handled simply by shifting attention from political superstructure to economic base. Materialist critics of what is pejoratively called the purely formal democracy of capitalist society have framed their demands for economic equality in the language of demands for substantive over merely formal political rights. Thus, in the late 19th and 20th centuries, a dichotomy was created in democratic thinking between liberal, formalistic approaches, on the one hand, and socialist, substantive approaches on the other. Marxists argued that economic equality was the only way to ‘realize’ formal political promises, which they claimed had been formulated as mystifications by the ruling bourgeoisie.

Recently, as Marxism has lost its sway and the intellectual and moral understanding of the tragedy of state communism has matured, the contrast between formal and substantive rights has been posed less as an exclusive dichotomy and more as a complementarity between two entirely different forms of rights. For contemporary critical theory, democracy is now defined as formal plus substantive rights, yet the latter still is understood in primarily economic terms. For example, David Held has abandoned a neo-Marxist approach to justice and now takes up an

institutional approach. Adding empowering economic 'conditions' to the formal political structures of traditional democratic theory, he suggests we should develop 'a new model of democracy' (Held, 1987: 274–7, also 183, 282, 287, 297).

Yet, while this movement beyond the traditional Marxist critique of formal democracy is an important one, I want to argue here for a much broader understanding of the social conditions upon which democracy depends. These conditions go well beyond the structures of economic equality that recent neo-Marxist critics have described. The focus on such structures must be expanded to include a sphere of society that is relatively independent not only of the narrowly political but also from the economic realm. In calling this the sphere of 'civil society', I join other contemporary social thinkers in taking up a term from the heyday of democratic discussion which had fallen into disuse for more than a century. I will, however, define civil society in a new way.

The Identity of a National Community

In the approach to civil society that I will pursue here, I stress the significant role that social solidarity plays in democratic society. This emphasis, however, need not exclude recognition of individuality. Indeed, I wish to understand civil society as the arena in which social solidarity is defined in universalistic terms. It is the 'we-ness' of a national community taken in the strongest possible sense, the feeling of connectedness to 'every member' of that community that transcends particular commitments, narrow loyalties and sectarian interests. Only this kind of solidarity can provide a thread of identity uniting people dispersed by religion, class or race. Only this kind of common and unifying thread, moreover, can allow the individuals in this group to be conceived of as themselves responsible for their 'natural' rights.

This conception of civil society derives from the post-Hobbesian, liberal tradition of political thought. That early liberal discussion was often diffuse, and the very term 'civil society' only vaguely articulated. Still, it is to this liberal philosophical tradition that any contemporary discussion must return (Seligman, 1993). To do so is to discover that, while the liberal understanding of civil society embraced the individual, it was far less individualistic than is often perceived.

Hobbes identified civil society with the state: 'No law can be Unjust. The Law is made by the Sovereign Power, and all that is done by such Power is warranted' (Hobbes, 1958: 388). In doing so, Hobbes not only justified an anti-democratic form of political authority but followed a long tradition of pre-modern religious thought in which 'civil' was contrasted primarily with 'ecclesiastical', as in Augustine's contrast between the city of God and

the city of man. Hooker and Locke, by contrast, were motivated more by the individualistic activism of Reformed Christianity than by the hierarchical sensibilities, mechanism and determinism that inspired Hobbes. In *The Second Treatise on Government*, Locke developed an understanding of an independent sphere of fellowship, a 'commonwealth' or social solidarity, that emerges in the state of nature and is extended, via the social contract, to the civil law regulating social life. Locke is careful to emphasize that this solidarity is based on individuation. It is because 'mankind [is] all equal and independent' that 'no one ought to harm another in his life, health, liberty or possessions' (Locke, Book II, section 6). The Scottish moralists elaborated precisely this interrelation of solidarity and individuation. In Adam Ferguson's response to what he considered the overly rationalistic individualism of contract theory, for example, he argued in *Essay on the History of Civil Society* that an increase in self-control and 'subtlety' and a decrease in brute impulse were necessary for the emergence of civil society. He described the latter as the social bond that defines a nation, the fellow-feeling among members of a community that guarantees respect for law, protection of property and regulation of authority.

While Adam Smith emphasized the role of common moral sentiments in constituting the 'impartial spectator', he also emphasized the individualistic search for recognition and prestige that lay at the base of this newly civil kind of community.² A similar attempt to connect the individual and the collective lay at the base of de Tocqueville's conception of the sphere of public, active and voluntary political life, the world of 'self interest rightly understood' that he expressly anchored in the collectively binding, extra-political world of law and the collective regulation of religion (De Tocqueville, 1954).

What does this early modern tradition of thinking have to do with the inadequacies of post-Marxist ideas about democracy? Quite a bit. As Keane has pointed out, the liberating discourse about civil society I have just described began to disappear in the mid-19th century (Keane, 1988b: 31–68, 1988c: 35–71). Assuming the existence of solidarity and relatively equal conditions, early theorizing on civil society emphasized liberty, guaranteeing equality only in legal and political terms. With the onset of industrial capitalism, this concern for political democracy became overshadowed by what came to be known as the social question. Pushed to intellectual center stage by the great working-class movements of trade union organization and socialist reform, what Polanyi called the 'protectionist movement' not only directed attention to the inclusion of economic outgroups but also relegitimated a strong state (Polanyi, 1957). Because the state seemed essential for coordinating chaotic markets and redistributing their wealth, the notion took hold that social equality in the industrial era could be achieved – by liberal, socialist and authoritarian states

alike – without any particular regard to the importance of an independent civic sphere. This shift in intellectual sensibility was to have extraordinary effects in real life. Because of it, the anti-capitalist revolutions of the 20th century pinned their hopes for a good society on the strong state/social equality complex. Post-war revolutions against colonialism tried to construct independent socialist societies along exactly the same path. Only recently have the tragic social, cultural and intellectual repercussions of these decisions become plain to see.

Meanwhile, in Western critical and Marxist theory, this shift in public and intellectual *sensibility* took on the status of an empirical *fact*. For thinkers from Walter Lippman and John Dewey to C. Wright Mills, Hannah Arendt and Jürgen Habermas, the disappearance of public life became axiomatic for any consideration of 20th-century life. Captives of this historical shift in intellectual presuppositions, these influential thinkers were unable to think reflexively about it. They were convinced that capitalism had destroyed public life and that in democratic mass societies an all-powerful market had pulverized social bonds, converted citizens into egoists and allowed oligarchies and bureaucracies full sway. Capitalism was conceived as the world in which privacy ruled. That this was, in fact, far from the case had become for even the most acute social observers very difficult to see. They could no longer draw upon the idea of civil society, and the social conditions that had triggered its demise still held sway.

During the period when industrial capitalism first emerged, Marx had laid the basis for this view of modern decline by identifying civil society exclusively with the formally guaranteed realm of capitalist economics. As Cohen writes in her devastating critique, 'social, political, private, and legal institutions were treated [by Marx] as the environment of the capitalist system, to be transformed by its logic but without a dynamism of their own' (Cohen, 1982: 5, 24). Marx had accused Hegel of justifying such a privatized conception of civil society, of identifying it only with the 'system of needs' which became the world of political economy in Marx's own work. It comes, perhaps, as a surprise that Hegel had never done any such thing. To the contrary, his work can be seen, at least in part, as having reworked the liberal line of thought in a more communal, solidaristic way. It is true that the available linguistic resources and the peculiarities of German history led Hegel, as they had led Kant, to translate the English term 'civil society' as *Bürgerlich Gesellschaft*, which roughly means 'bourgeois' or 'middle-class' society. Nonetheless, the Marxist contention that Hegel identified civil society simply with class society is not only anachronistic, but fundamentally misleading. For Hegel, civil society is not only the world of economic needs but also the sphere of ethics. It is a moral realm differentiated from family life, which Hegel portrayed as fully concrete and particularistic, and from the state, an institution that for ideological and philosophical reasons

Hegel considered the only fully universalist realm. What is important is that, alongside the world of needs, Hegel emphasized other intermediate groupings and forms, like law and what today we would call voluntary organizations.³

Indeed, it was at least in part under Hegel's influence that Antonio Gramsci developed his own, thoroughly anti-individualistic and anti-economistic approach to civil society, which despite its Marxist allegiance has done more to resuscitate the fuller conception than any other approach in our time. Departing from Marxist dualism, Gramsci defined civil society as the realm of political, cultural, legal and public life that occupied an intermediate zone between economic relations and political power (Gramsci, 1971). On the basis of this thoroughly anti-reductionistic idea, he issued a profound challenge to orthodox Marxist thought, maintaining that socialist revolution could not be triggered by a crisis in the economy alone. Civil society itself would have to be challenged, and transformed, independently of the economic base. Despite the fact that Gramsci did not associate civil society with democracy, but rather with the world that impeded it, his discussion is highly significant for the conception I would like to develop here.

That Gramsci was forced to develop his thinking about civil society in a Fascist prison was not only his misfortune but our own. If his ideas about civil society had been able to affect broader intellectual life, they may have helped to prevent the virtual disappearance of the term from social scientific thought. Still, the substantive phenomena to which the term refers have continued to be the focus of important strands of 20th-century social scientific thought. Notions of solidarity, civilization, civility and citizenship have been central to important lines of theoretical and empirical work. Durkheim devoted his career to outlining the mechanisms and processes of social solidarity. Freud conceived his psychological studies as part of a broader investigation into the nature of civilization, which he saw as dependent upon the successful sublimation that produced pacific and cooperative social behavior. Mead understood the 'generalized other' as an internal mechanism that allowed mutual understanding and rule-regulated action, which in turn produced the kind of spontaneous cooperation and play that interaction in a democracy suggests. Piaget explained the psycho-social processes that generated altruistic and communal, yet at the same time individuated, modes of thought and action. Marshall defined social citizenship as dependent not only upon a strong state but upon the spread of mutual sympathy and cross-class solidarity. Parsons developed his notion of societal community to identify a sphere of social solidarity based upon individual rights, which could interpenetrate with the political, economic and cultural realms.

With the exception of Freud, however, these discussions suffered from their participation in the utopian project of modernization. The civilizing

projects that each thinker identified were viewed as imminent ones. The tensions that existed between these civilizing processes and the uncivil spheres of society were drastically underemphasized, and the dark and destabilizing underside of civil society was often ignored. In this way, and despite their enormous contributions, these more positive and appreciative openings to civil society formed the mirror image of the critical intellectual denial of it.

Conceptual Differentiation

Nonetheless, conceived as a form of social organization that is distinct from both economic and political categories, one that refers to collective solidarity and individual voluntarism at the same time, civil society can be seen as a uniquely sociological concept, as Alvin Gouldner argued some 20 years ago in his prescient defense of the concept against Marxist forms of critical theory (Gouldner, 1980: 363–73).⁴ Civil society does not imply community in a narrow, traditionalistic sense, the sense that is emphasized, for example, in the classical sociological distinction between *Gemeinschaft* and *Gesellschaft*, typically translated as community and society, or in recent examples of communitarian social philosophy. The approach I wish to take here, to the contrary, might be described as suggesting the 'community of society', the *Gesellschaft* as a *Gemeinschaft*. Every functioning group needs to have some collective consciousness.⁵ 'Civil' society is understood as that form of collective consciousness that extends most widely and deeply, so much so that it can, in principle, include all the various groupings in a discrete, administratively regulated, territorial domain.⁶ Identification over such a widely dispersed space can be sustained only by universalistic ties that appeal to highly generalizable values such as rights and peoplehood.

The breadth and scope of such a community have led most contemporary thinking about civil society to follow Kant and other Enlightenment philosophers in their identification of these ties in terms of reason and abstract right. Habermas and those influenced by him effectively limit the actual discourse of civil society to references to reasonableness, rights and fairness. In so doing, they tie their thinking about the processes of civil society to the classical ideal of a completely transparent communication.⁷ Similar strains of abstract universalism permeate John Rawls' theory of justice, which is postulated on the notion that political systems will become more civil and inclusive only if political actors can engage in hypothetical thought experiments where they must develop distributive principles without any concrete knowledge of their own individual fates (Rawls, 1972). The critical terms of Parsons' evolutionary theory, value generalization and instrumental activism, reveal the same kind of commitment to an

abstract and contentless, procedural notion of overarching rationality (Parsons, 1966).

Universalistic ties, however, need not be socially articulated by abstract symbols like 'reason' or 'right'. Of course, they can be, and often are, as in such foundational documents as the American Declaration of Independence or the French Declaration of the Rights of Man. But to limit our thinking about civil society to such notions commits what might be called the fallacy of misplaced abstractness, a fallacy that undermines the very sociological usefulness of the term. Universalism is most often articulated in concrete rather than abstract language. Evoking imminent tendencies in particular local, national or even civilizational cultures, universalism appeals to images, metaphors, myths and codes, anchoring these symbolic categories to the everyday lifeworlds within which citizens reside.⁸ For the French revolutionary *sans-culottes*, as for the American revolutionaries, the emerging civil society was not something abstract. For the French, it was the 'beloved nation', often portrayed iconically as a woman, 'Marianne', the goddess of liberty. For Americans, reason was metaphorically conceived in the narratives of the Old Testament, e.g. as in *Exodus*, and, iconographically, in such symbols as the liberty tree. For contemporary Americans intent on enlarging civil society, the concrete imaginings of a more civil, and hence universal, solidarity have even taken a specifically racial hue, as the multicultural term 'rainbow society' suggests.

As these cultural considerations suggest, the abstraction that has dominated so much recent thinking about the discourse of civil society must be brought down to earth and translated into terms of realistic, concrete everyday thought and speech. Abstractly universalistic understandings of the institutional reach of civil society must be challenged in the same way. Because nation-states continue to be the limiting structures of contemporary social life, civil consciousness can be impersonal only in a relative sense. There is no principled reason, to be sure, why the concept of civil society cannot be applied to the supranational plane. As the growing influence of international demands for human rights makes evident, an imminently global civil solidarity has, indeed, become a factor on the contemporary world scene. It is certainly also the case that national states have begun to cede some of their institutional power to supra-national forces, particularly in the economic realm. Nonetheless, national states continue to form the most effective boundaries of the societal community, and it is predominantly a national version of solidary ties that defines the rights and duties of those who are its members and determines inclusion and exclusion as a result.

We must continue, in other words, to discuss civil society as a community roughly isomorphic with the nation. That 'nation' connotes solidarity and identity demonstrates that by no means can it be equated with

the state. At the same time, the concrete and rooted quality of every nation suggests a particularity that challenges the abstraction of the normative idea of civil society, relativizing its philosophical universalism in a sociological way. At this point in historical development, the binding collectivity, for better and for worse, understands itself primarily in terms of the history, high culture and local narratives of a distinctively national existence. Yet, while the concrete reference of the collective dimension of civic consciousness suggests the community of the nation, universalism retains clear supra-national implications. When it is linked to civil consciousness, then, nationalism can be defined in a manner that allows increasing recognition of individual autonomy. The expansion and contraction of the state, studied over centuries or over much shorter periods of time, involve not only political, economic, religious and organizational power but the construction and reconstruction of the national community as a more and less civil society. Restrictive understandings of national solidarity have been challenged, and successfully redefined in broader and more civil ways, by those excluded from 'the nation' and by those intellectuals and social movement leaders who have spoken in their name. At the same time, this halting and uneven process has often been blocked and powerfully reversed. Even when the struggle for inclusion is successful, moreover, it can typically expand universalism *within* the nation only by reinforcing particularistic orientations *without*, which define the nation not only as a distinctive but, indeed, as a superior community vis-à-vis others. Despite its overly economic form, it was just such a dialectic that Engels had in mind when he contended that the newly gained affluence and inclusion of skilled workers in 19th-century Britain made them support imperialist politics. It has often been by proving themselves to be 'good Americans', for example by fighting courageously in American wars, that racial, ethnic and religious minorities have earned entrance into the civil society of the United States. Marshall suggested that the British welfare state, which marked a significant expansion of civil society, owed its creation to the cross-class solidarity that emerged among the British soldiers in the Second World War (Marshall, 1950).

Within the context of the nation-state, however, the process of expanding civil society refers not only to horizontally extending its scope – the inclusion of outgroups – but also to a vertical process which allows a fuller realization of the 'higher' obligations that such national communities engage, commitments that can be conceived of as transcendent vis-à-vis existing institutions and which may relativize and challenge the moral status of the national collectivity at a particular point in historical time. This transcendental anchoring may connect to the metaphysical dualism of revealed religion, as Bellah's notion of American civil religion suggests (Bellah, 1970); it can also be conceptualized in a more naturalistic and

ethical way. Whatever its form, this transcendental reference allows the national community to be conceived not merely as a primordial community based on inherited givens but as an association based upon reason and virtue, qualities which can be seen as much more widely distributed and achieved (Walzer, 1965). If the collective side of civil society is represented by nationalistic rhetoric about 'God's chosen people' and by constraints on unpatriotic public behavior, its individualistic side is represented by highly idealized discourses that illustrate rights, virtues, reasons and freedoms, and which imagine relationships built upon spontaneous solidarity.⁹

Paradoxes

Civil society, then, is paradoxical, a dimension of social organization rooted simultaneously in a radical individualization and a thoroughgoing collectivism, the combination captured in Habermas's notion of 'the sphere of private people come together as a public' (Habermas, 1989: 27). For such an expansive solidarity to be maintained, subjective commitments must be made to the national group as a whole. 'We, the people . . .' is more than a historically specific phrase in the opening sentence of the American Constitution: it is a language that permeates and helps to constitute the 'civil' in every struggle over solidarity and society. Yet, if solidarity were extended only to the collectivity as such, it would become a particularism supporting repression, not liberty. Communist states are no less committed than democratic ones to an idea of 'the people'. By understanding civil solidarity only in its purely collective sense, totalitarian forms justify their governments as 'people's democracies' (Prager, 1985: 179–210). In his reflections on the social dimensions of modern citizenship, Marshall underscored the fundamental importance of complementing the collective, communal component of civil society with the institutionalized protection of individuals (Marshall, 1965). Distinguishing 'Socialism II', exemplified by the postwar British welfare state, from 'Socialism I', the Bolsheviks' communist model, he emphasized the insistence in 'Socialism II' that welfare be distributed on the basis of particular rights and obligations rather than merely collective membership in the national group. The tension-in-balance later became the starting point for Reinhard Bendix's explorations of the contemporary political development of citizenship and of Parsons' analytical theorizing about the societal community.¹⁰

The tension between the individual and collective dimensions of civil solidarity has often been recognized by political actors themselves. The leaders of the Solidarity movement in Poland, for example, believed that their movement had created the communal, or collective, basis for a civil

society. As they prepared for the transition to democratic politics, however, they became acutely aware that this dimension of collective solidarity did not necessarily imply the respect for individual rights and pluralism that constitutes civil society's other, more liberal side. During an academic conference on civil society during the Polish transition to democracy, Bronislaw Geremek, Solidarity's parliamentary leader, told his colleagues, 'We don't need to define' the communal aspects of Polish civil society: 'We see it and feel it'. He added, however, that this solidarity was 'not yet democracy'. In this sense, he concluded, Poland's fledgling civil society was still 'the opposite of the West's', which included a decidedly individual side (Lewis, 1989: A15).

If the philosophical nature of current discussions about civil society makes it difficult to see the particularizing limits that sociological exigencies put on its universal ideas, it also makes it difficult to see where the boundaries of civil society and those of other institutions begin. In the early modern formulations upon which so much of current discussion depends, civil society was an umbrella concept that, in one usage or another, included everything outside the control of the state, from the family, to economic corporations, to the law and voluntary organizations. In the transition from early modern Absolutism to the first democratic revolutions, of course, there were good historical-practical reasons for such a broad usage. Much the same can be said for the employment of this broad conception in the recent efforts to free nonpolitical spheres from state and party control in former Communist and authoritarian countries. In the heat of electing the first non-Communist prime minister in postwar Poland, for example, a *New York Times* columnist (8 August 1989: A15) argued that, while 'modern society requires specialists' – the differentiation of interests and objectives – 'it also needs to harmonize the citizens' efforts. Totalitarianism destroys all associations it cannot dominate. So civil society needs a constant organizing.'

Yet, no matter how historically appropriate or politically relevant, the very breadth of this conceptualization creates theoretical confusion and practical disarray. Because it offers only one principle for civil society, that of 'nonstate', it conflates institutions and processes – public and familial, economic and solidaristic, corporate and voluntary – that are often divergent and contradictory.¹¹ In *Democracy and Civil Society*, for example, Keane defines civil society as 'the realm of social . . . activities', defined so broadly as to include 'privately owned', 'market-directed', 'voluntarily run', and 'friendship-based' organizations, a series of phenomena which are by no means necessarily theoretically complementary or practically congenial. Keane goes on to assert, moreover, that such civil activities are at once 'legally recognized' and 'guaranteed by the state', all the while forming an 'autonomous [sphere of] social life'. Still later, he describes civil

society as 'an aggregate of institutions whose members are engaged primarily in a complex of non-state activities – economic and cultural production, household life and voluntary association' and goes on to identify these seemingly private activities as "'sociable" public spheres' (Keane, 1988a: 3, 14).

Similarly, when Andrew Arato first employed 'civil society' in a series of important articles on the Polish Solidarity movement in the early 1980s, he suggested that the civil sphere in its Western form was tied to private property, a traditional understanding that not only contradicts the broad range of references employed by Keane but also renders the concept much less useful for distinguishing democratic from nondemocratic capitalist societies (Arato, 1981: 23–47, 1982: 23). In their later philosophical statement on the topic, Cohen and Arato expressly severed this connection. Yet, their more complex model still failed to differentiate civil society from the spheres of ideological, religious and familial life (Cohen and Arato, 1992).

In Held's similarly overly-inclusive approach, he argues that 'there is a profound sense . . . in which civil society can never be "separate" from the state'. Because the latter 'provide[s] the overall legal framework of society, to a significant degree [it] constitutes the former' (Held, 1987: 281). The problem here lies with just what the term 'separate' means. In national communities, state bureaucracies monopolize the means of violence; in this sense, the legal and civil order must indeed be connected to the state. Yet the specificity of the legal order, the formulation of laws, the interpretation of constitutions and the legal judgment of other institutions in terms of civil criteria may, in fact, be sharply differentiated from the very state institutions that underwrite their coercing force. Independently grounded and interpreted law may control the state's exercise of violence. To suggest a distinction between direct and indirect state control, as Held does, will not resolve this problem. To the degree that civil society is independent, it will control the state; not be indirectly controlled by it.

Such confusions continue to inform even the most useful of the recent discussions, which still draw upon early modern discussions of civil society, and from the commonsense thinking of political actors today. Alan Wolfe (1989) identifies civil society with the private sphere of family and voluntary organization. Adam Seligman (1993) ties it to the rule of reason in a highly abstract sense. Pateman (1988: 101–28) claims civil society to be inextricably linked to patriarchal family relations, while other critical intellectuals identify it with particular economic structures of inequality. In recent essays, Shils and Walzer also use the concept in a manner that recalls its older, ambiguous, umbrella-like form (Shils, 1991a: 3–20; Walzer, 1991: 113–26, 1992: 90–107). Others continue to identify civil society with the state, Ahrne (1994) viewing this connection as a continuing source for social equality, Kimmerling (1993) seeing it as a barely concealed threat to

democracy. Cohen and Arato's systematic treatise is certainly the most nuanced of all these recent works, but by identifying civil society with virtually the entirety of social life that lies outside the economy and the state, they agglomerate various institutions and cultural patterns that must be much more carefully kept distinct.

Regimes of Justification

These problems demonstrate the lack of precision in the contemporary usage of the term 'civil society'. We need a more delimited and differentiated understanding of the term, one which can parallel the empirical demarcation of civil society that democracy in the ideal sense implies. Archaic uses must be discarded. The courts, the police, the market, private property interests, the family, the religious and philosophical spheres – each has its specific and independent nonpolitical interests, which are as different from those of civil society, the sphere of universalizing social solidarity, as they are themselves different from those of the state.

This is not to say that these nonpolitical spheres, or indeed the state itself, can be hermetically sealed off from civil society. To the contrary, only by separating these spheres analytically – defining them according to independent concepts and pinpointing their differentiated interests and discourses – can we understand the actions that social movements, elites and ordinary persons alike undertake to reconstruct them. Only with this *analytical* move, in other words, can we trace the *empirical* interrelations between civil society and these other, noncivil spheres. Walzer (1983) and Boltanski and Thévenot (1991) have argued, quite rightly, that these other, noncivil arenas are spheres of justice in their own right.¹² Their non civil status does not mean that they should be conceived as spheres of pure interest or egoism: they have imminent moral structures of their own. Yet these other 'regimes of justification', nonetheless, differ in fundamental ways from justifications by reference to 'the common good', the criteria that most approximate the criteria of civil society itself. The institutions, interactions and values that underlie civil solidarity depart in clear ways from those that underlie the world of economic cooperation and competition, the affectual and intimate relations of family life and the transcendental and abstract symbolism that form the media of exchange in religious and intellectual life.

Civil solidarity may well be a necessary, if not a sufficient, condition for these other social functions to be carried out in a democratic way. For this reason, civil and noncivil spheres cannot merely coexist in a kind of harmonious interchange. It is not only the pluralization of spheres that guarantees a good society, as Walzer (1983) suggests; nor the free play and good will of interlocutors willing to compromise their interests in the face of competing and persuasive claims for moral justification, as Boltanski

and Thévenot (1991) propose. To maintain democracy, it is often necessary for civil society to enter into the other noncivil spheres, to demand certain kinds of reform and response and to monitor them through regulation in turn. In response to what might be called 'destructive intrusions' into the civil realm, in other words, civil society might be said to make efforts at 'repair'.

In functionalist terms, civil society can be conceived as a social dimension, or subsystem, that receives inputs from these other spheres, is bound by their constraints and makes efforts to constrain them in turn. In a more phenomenological sense, it can be said that civil society supplies some of the basic assumptions upon which activities in these other spheres rely. Indeed, 'civil society' constitutes a large part of the public lifeworld upon which contemporary social organization rests.

Persons can be members of civil society and participants in differentiated social institutions at the same time. When people participate in the corporation, the state, the church and the family, if they are citizens they do so also as members of a civil society. Because of such dual membership, participants in these discrete and more particularistic institutions are connected to persons, experiences, norms and sanctions outside of their specific spheres. Only to the degree that a more universal, civil solidarity holds, are 'persons' as such guaranteed rights and committed to obligations, rights and obligations that can and often do contend with the more restrictive opportunities and constraints which they experience in the other spheres of their lives, at work, at home or in the neighborhood.

Notes

This article is drawn from a book in progress, tentatively entitled *The Possibilities of Justice: A Sociological Theory of Civil Society*.

1. Dahl (1956) represents an early and highly influential rendering of this formal institutional perspective in the American context.
2. See the important use of Smith in this regard by Boltanski and Thévenot (1991).
3. Note Cohen and Arato's discussions of Hegel and civil society, especially in Cohen and Arato (1992). But Hegel is perhaps not quite as original as they or the other authors who have rightly tried to re-emphasize his positive contributions to the newly emerging discussion of civil society suggest (e.g. Pelczynski, 1984; Reidel, 1984). These treatments underplay the Scottish and English origins of thinking about the term.
4. This discussion never received sufficient attention because it was published during the period of strong state theory.
5. For the most intriguing recent elaboration of this Durkheimian idea, see Shils (1991a, 1991b).
6. See my earlier discussion of the 'terminal community' (Alexander, 1988).

7. For the exclusive identification of reason with civil society and the public sphere, see Habermas (1989); for the idea of complete transparency, see Habermas (1984–87). For the work of Habermas's most original and important followers in this regard, see Cohen and Arato (1992). For my critique of Habermas's position, see Alexander (1989). For my critique of Cohen and Arato in this regard, see Alexander (1994). For a discussion of recent changes in the Habermas tradition, as it has moved away from a purely Kantian position, see Alexander and Lara (1996).
8. In his remarkable effort to reconstruct Habermas's communicative theory by linking it to hermeneutic theories of narrative and interpretation, Ferry (1992) seems to be making a very similar point. Its usefulness is limited, however, by his insistence on an evolutionary sequence of forms of experience that places narrative first in history and rational reconstruction in the most recent position. See Smith's critique, from a more cultural position, in *Contemporary Society* (forthcoming). In contrast, I am suggesting a position that is very similar to that of Michael Walzer, who has insisted in a series of books that both the lay and professional understanding of justice can arise only immanently, from within particular spatial and cultural domains. See also the important argument of Boltanski and Thévenot (1991), that there is a plurality of discursive regimes, each of which organizes the understanding of justice, and none of which evokes the standard of abstract rationality. There remain, however, non-cultural, radically universalistic tendencies in their work, as evidenced, for example, in their sharp critique of Walzer for insisting that the regulating principles of different social spheres are culturally and historically relative and require, therefore, a hermeneutical rather than a purely analytic approach. While regarding Walzer's position as a fundamental corrective to abstracted universalism, my approach to civil society remains fundamentally more connected to Kantian concerns.
9. For a still-relevant discussion of precisely this tension in the American civil religion, see Cherry (1971).
10. Bruce Ackerman (1980) has provided the most ambitious philosophical statement of this Marshallian perspective.
11. For an attempt to tease some of these dimensions apart in the debate about the so-called independent sector, see Alexander (1987).
12. Because their understandings of justice have such an inextricably cultural dimension, and because they emphasize the differentiation and interpenetration of independent social spheres, these two books represent some of the most relevant work in social philosophy for discussions of civil society. One must note, in addition, the revisionist, more culturally oriented discussions of 'post-Habermasians' such as Ben-Habib, Honneth and Offe.

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