LOVING PIMLICO:

PATRIOTISM IN THE AGE OF THE COSMOPOLIS

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Patriotism is seen as something positive in our common political discourse; however, among political philosophers it is often seen as an unreflective and irrational love of the familiar. This dissertation explores the question of what precisely patriotism is and whether or not it can be moral. First, I examine Martha Nussbaum’s cosmopolitan critique of patriotism based upon her theory of universal human “capabilities.” Secondly, I explore the concept of “constitutional patriotism,” particularly in the work of Jan-Werner Müller. Constitutional patriotism is a concept, first formulated by Jürgen Habermas, that attempts to make patriotism compatible with liberalism by transforming the object of the patriot’s attachment from a concrete political entity to a set of liberal constitutional principles. Finally, I attempt to construct a conception of patriotism which is both substantive and limited based upon an Aristotelian/Thomistic notion of friendship. I suggest that patriotism has to be understood as acting for the good of one’s political community. In addition, it has to be limited by an understanding of the political
community as a finite entity dedicated to the pursuit of one among many possible instantiations of the political good.
CONTENTS

INTRODUCTION ...............................................................................................................1

PART I  LIBERAL MORALITY AND THE CRITIQUE OF PATRIOTISM.............17

CHAPTER 1: NUSSBAUM ON THE MORALITY OF PATRIOTISM ...............18
  1.1 Introduction ............................................................................................................18
  1.2 The Capabilities Approach ....................................................................................23
  1.3 Human Flourishing and the Limits of Liberalism: A Critique of Capabilities ....38
  1.4 Nation-State or World State: The Capabilities Approach on Institutions ......59
  1.5 Capabilities and Particular Duties .........................................................................75
  1.6 Capabilities as a Matter of Justice .........................................................................87

CHAPTER 2: NUSSBAUM AND THE PASSIONS OF PATRIOTISM ............94
  2.1 Critique of the Emotional Component of Patriotism .............................................94
  2.2 “Purified Patriotism” ............................................................................................115

PART II  LIBERAL MORALITY AND THE CO-OPTING OF PATRIOTISM ....144

CHAPTER 3: CONSTITUTIONAL PATRIOTISM ........................................145
  3.1 Habermas and the Origins of Constitutional Patriotism ......................................146
  3.2 Müller’s Constitutional Patriotism: What is it good for? ......................................151
  3.3 The Moral Foundation of Constitutional Patriotism ............................................157
  3.4 The Object of Attachment ....................................................................................163
  3.5 The Mode of Attachment .....................................................................................179
  3.6 The European Union as an Example of Constitutional Patriotism ......................202
  3.7 Conclusion ...........................................................................................................215

PART III  A SKETCH OF MORAL PATRIOTISM .....................................220

CHAPTER 4: SOCRATIC PATRIOTISM .....................................................221

CHAPTER 5: OBJECT OF PATRIOTIC ATTACHMENT ..........................251
  5.1 A Word About Terminology .................................................................................251
  5.2 Patriotic Attachment and the Role of the Political Community .........................255
  5.3 The Political Community as a Mutual Security Pact ...........................................259
  5.4 Patria as Parent .....................................................................................................264
  5.5 Ruling and Being Ruled: The Patria as a Community of Rational Beings .........280
  5.6 What about the Cosmopolis? ...............................................................................293
Let us suppose we are confronted with a desperate thing – say Pimlico. If we think what is really best for Pimlico we shall find the thread of thought leads to the throne of the mystic and the arbitrary. It is not enough for a man to disapprove of Pimlico: in that case he will merely cut his throat or move to Chelsea. Nor, certainly, is it enough for a man to approve of Pimlico: for then it would remain Pimlico, which would be awful. The only way out of it seems to be for somebody to love Pimlico: to love it with a transcendental tie and without any earthly reason.

G.K. Chesterton, Orthodoxy
INTRODUCTION

Controversy has surrounded the terms *patriot* and *patriotism* since almost the first moment that they made their appearance in the English language more than 400 years ago. According to the *Oxford English Dictionary*, the term *patriot* comes into English most immediately from the Middle French word *patriote* which means “fellow countryman.” However, the roots of the term can be traced back to the Latin *patriota* and the ancient Greek πατριώτης. Both the Latin and Greek terms come from the word for “father” and thus the term originally implied a kinship or blood relationship rather than a specifically political relationship. In fact, the Ancient Greeks used the term πατριώτης to refer to the barbarians who possessed a common πατρίς, whereas they used the term πολίται to refer themselves because they possessed a common πολίς. For the Romans, on the other hand, the terms *patria* and *patriota* implied both the shared activity of politics and the blood kinship of a people who trace their origins to a common founder. Thus, from the beginning there is present in the term *patriotism* two separate and sometimes contradictory strands: one representing a relationship of blood and birth and the other representing a relationship of common action and choice.1

The term *patriot* in English was originally used primarily to mean “fellow countryman” or “compatriot.” When it was used to signify someone who serves his or

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her country well, it was generally accompanied by some descriptive adjective such as 
“good” or “true” or “faithful.” The OED maintains that using the term *patriot* to mean a 
lover of his or her country is rare before 1680. This date is significant in English history 
because it is around this time that dissatisfaction with the rule of James II becomes 
pronounced, a dissatisfaction which culminated in the ousting of James and his party in 
the Revolution of 1688. According to the OED, after 1680 the term *patriot* began to be 
used to refer to those who supported the rights of Parliament and the country party 
against James and his allies in the court party.\(^2\) Thus, we can see that the first widespread 
use of the term *patriot* in the sense in which we understand it today came from those who 
wished to distinguish between being acting in the best interests of their country and being 
a loyal servant of the king. The terms *patriot* and *patriotism* were brought into the 
English language to express the idea that the political community has an existence apart 
from the sovereign and that the good of the political community is not necessarily 
identifiable with that of the sovereign.

From the very moment at which this meaning of the term became popular, 
however, there were those who hotly disputed the distinction that was being made 
between sovereign and country. They maintained that these so-called patriots used the 
excuse that they were serving the best interests of their country to foment rebellion and 
advance their own personal interests. In 1681, the poet John Dryden wrote his famous 
satirical poem “Absalom and Achitophel” in which he used the Old Testament story of 
Absalom’s rebellion against King David to condemn the rebellion of the Duke of 
Monmouth against Charles II. In 1681, Monmouth, an illegitimate son of Charles, was

\(^2\) Ibid.
caught preparing to rebel against his father in order to prevent Charles’ brother James (a suspected Catholic) from succeeding to the throne.\(^3\) Dryden wrote the poem, possibly at Charles’ behest and it was published in November 1691. In it Dryden has David describe Absalom thus: “Gulled with a patriot’s name, whose modern sense/ Is one that would by law supplant his prince;/ The people’s brave, the politician’s tool,/ Never was patriot yet, but was a fool.”\(^4\) The use of the term *patriot* in a derogatory or ironic manner begins at almost the same time as its use in a complementary fashion.

Thus, we can see that from their earliest usage in the English language the terms *patriot* and *patriotism* have been fraught with controversy. Being a lover of one’s country and a servant of its interests was generally considered to be good thing, but what exactly this required was a subject of great debate in the 17th century as it is today. Dryden’s poem represents just one salvo in the war between the Whigs (supporters of Parliament) and the Tories (supporters of the king) over which party could properly lay

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\(^3\) Charles II had no legitimate children and his brother James was his only heir. James was a Catholic (or at least sympathetic to Catholicism) and was married to a Catholic, Mary of Modena in 1673. The planned rebellion which is the subject of Dryden’s poem was engineered by the Earl Shaftsbury who appears in Dryden’s poem as Absalom’s supporter Achitophel. Shaftsbury was tried for treason for his role in planning the rebellion and had to flee into exile where he later died. Monmouth himself went into exile in the Netherlands in 1683, but after his father’s death in 1685 he returned to England and attempted to take the crown from his uncle James in what is known as the “Monmouth Rebellion.” The rebellion was swiftly put down by James and his supporters and Monmouth was executed on July 6, 1685.

\(^4\) John Dryden, *Absalom and Achitophel*, lines 965-8. Although Dryden here and at other places asserts his disapproval of those who foment rebellion under the guise of patriotism, he is by no means an advocate of the “divine right of kings” or absolute monarchy. His portrayal of the abortive rebellion is as a tragedy for both sides and the poem serves as a warning to both the court and the country party. Both Absalom and King David have their faults and neither is portrayed with an entirely sympathetic eye. In his 1699 poem “To My Honour’d Kinsman, John Driden of Chesterton,” Dryden makes clear that he believes both the king and the parliament are necessary features of the British constitution and neither one should totally dominate the other. “A Patriot, both King and Country serves; Prerogative and Privilege preserves; Of Each, our Laws the certain limit show; One must not ebb, nor t’other overflow: Betwixt the Prince and Parliament we stand; The Barriers of the State on either Hand: May neither overflow, for then they drown the Land” (lines 171-7).
claim to being true patriots. The Whigs argued that it was in Britain’s best interests to allow Parliament, as representatives of the people, to check the power of the King even to the point of deposing him in favor of another. The Tories, on the other hand, argued that the King had to have a source of power independent of the Parliament in order to maintain the traditional balance within the constitution. Whatever the merits of the arguments, it was the Whigs who prevailed and succeeded in fundamentally altering the power structure within the British constitution through the Revolution of 1688.

This rhetorical rivalry between the Whigs and the Tories over the meaning of the term patriotism is playing itself out again in our contemporary political discourse. Every election season both Democratic and Republican politicians attempt to paint themselves as patriots in the eyes of the voting public. And every election season the rhetorical war of words over the meaning of patriotism is resurrected by politicians and pundits alike. The 2008 presidential election was no exception with questions being raised about everything from Barack Obama’s decision to wear (or not to wear) a flag pin to his wife Michelle’s comments about her feelings of pride in her country. The issue of patriotism was particularly prevalent in the 2008 election because of the nature of the candidates involved: the old stalwart war hero vs. the young reformist community organizer. The differences in the candidates highlighted the fundamental differences between the Republican understanding of patriotism and the Democratic one. The liberal journalist David Greenburg characterized the difference thus: the Republican version of patriotism is one which supports “steadfast protectiveness of American values in the face of enemies” whereas Democratic patriotism “calls for candidly indentifying what’s wrong
with America in order to improve it."\(^5\) Conservative columnist Jonah Goldberg, on the other hand, characterized the difference between Republicans and Democrats as a difference between those who want to want to make America great and those who think that it already is.\(^6\) In general, however, I think it is safe to describe the difference between Republicans and Democrats on the question of patriotism as a continuation of the same debate that was carried on between the Whigs and the Tories. It is the difference between those who think that patriotism requires preserving a country’s unique traditions and way of life and those who think that patriotism means making the country better.

The popularity of patriotism among politicians and the voting public at large is not mirrored, however, within the philosophical and academic community. From the moment that Plato’s Socrates rejected Polemarchus’ definition of justice as doing good to one’s friends and harm to one’s enemies in book I of the Republic there has appeared to be an inherent tension between the requirements of serving one’s country and the duties of justice and morality.\(^7\) Political philosophers as diverse as Plato, Aristotle, Cicero, Augustine, Aquinas, Kant, Hobbes, Carl Schmitt and John Rawls, have all struggled with the question of the relationship between the good man and the good citizen. Some have come to the conclusion that citizenship is entirely irrelevant to the question what justice or virtue or morality requires, while others have concluded that the survival of the state is


\(^7\) Polemarchus defines justice as “doing good to friends and harm to enemies.” Plato, The Republic of Plato, 2nd ed., trans. and ed. Allan Bloom (Basic Books, 1991), 332D. Socrates in turn suggests that “it is not the work of the just man to harm either a friend of anyone else, Polemarchus, but of his opposite, the unjust man” (335D).
the only thing that makes justice possible. Others have attempted to balance the claims of
the two, but for none of these philosophers has patriotism turned out to be an
unproblematic virtue.

In the 20th century in particular, the trend among philosophers has generally been
a movement towards a universal understanding of human rights and away from the
particularistic claims of patriotism. To the extent that ethics should be based upon what
human beings all share in common, whether it be a desire for liberty, or a need for certain
basic goods or capabilities, or a commitment to certain norms of discourse and debate,
the particular group identities which divide us from one another cease to be morally
relevant. When people endow a thing like national identity with moral importance, it
makes it easy for them to disregard the needs and rights of people outside of their
particular group. In addition, the increasing movement towards the globalization of the
economy together with the rise to prominence of international organizations such as the
United Nations and the European Union has led some to speculate that the existence of
the nation-state as we have known it, the traditional object of patriotic affection, is at an
end. When I suggest in the title of this dissertation that we are living in what might be
called the “Age of the Cosmopolis,” I making reference to both of these trends. I mean to
suggest a movement towards “global thinking” in both political philosophy and political
science/economics.

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8 See for example: Prem Jha and Eric Hobsbawm, The Twilight of the Nation State: Globalization,
History and the Last Man, (New York: Free Press Paperbacks, 2006). Robert O. Keohane, Power and
This movement towards “global thinking” is strikingly at odds with the power and importance that the rhetoric of patriotism still has in our contemporary political discourse, at least in America. This disconnect between the prominent trends within academia and the judgment of public opinion gives rise to a number of important questions. Is the popularity of patriotism within our public discourse simply a relic of a previous age which will gradually die out as the structure of the world changes? Or does it rather represent some permanent truth about human nature that contemporary political theory would do well to take into account? On the other hand, is it possible to make room for patriotism (or some version of it) within an ethics which for the most part endorses universal moral obligations? Although patriotism may be seen as morally problematic, one might still acknowledge that it can be useful in securing the unity necessary for a pluralistic society to function and in inspiring the acts of personal sacrifice that are often necessary to obtain justice for all human beings. Is it possible to harness the useful qualities of patriotism while at the same time reigning in its dangerous tendencies?

The answer to all of these questions will, of course, depend upon precisely what one thinks that patriotism is and what sorts of activities it entails. In what is, perhaps, the most famous contemporary work on the ethics of patriotism, Alasdair MacIntyre maintains that what he calls “the morality of patriotism” is fundamentally opposed to the most prominent trend in contemporary political thought “the morality of liberalism.”\(^9\) MacIntyre argues that patriotism must be understood as loyalty to a particular nation,

one’s own nation, rather than loyalty to some sort of ideal or principle. Patriotism, like other loyalty virtues such as marital fidelity and friendship is “a peculiar action-generating regard for particular persons, institutions or groups, a regard founded upon a particular historical relationship of association between the person exhibiting the regard and the relevant person, institution or group.”

Patriotism may often involve gratitude to one’s country for the benefits that one has received from it, but patriotism cannot, according to MacIntyre, be reduced to an emotion of gratitude. Patriotism will also involve pride in the achievements of one’s country, but a patriot does not love his or her country because it is good or because of what it has achieved. A patriot loves his or her country because it is his or her own.

MacIntyre argues that what he calls “liberal morality” cannot understand patriotism as anything other than a vice, which should be rooted out to the extent that this is possible. The term “liberal morality” encompasses the theories of a variety of different philosophers who, MacIntyre claims, are all united by their commitment to five basic positions. These positions include the universal rational availability of the principles of morality, neutrality with regard to competing interests and competing accounts of the good, and the individual as the unit of analysis. According to MacIntyre, these basic

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10 Ibid., 44.

11 “Notice that in speaking of the standpoint of liberal impersonal morality in the way that I have done I have been describing a standpoint whose truth is both presupposed by the political actions and utterances of a great many people in our society and explicitly articulated and defended by most modern moral philosophers. . . I do not mean to suggest that the disagreements between [their] positions are unimportant. Nevertheless the five central positions that I have ascribed to that standpoint appear in all these various philosophical guises: first, that morality is constituted by rules to which any rational person would under certain ideal conditions give assent; secondly, that those rules impose constraints upon and are neutral between rival and competing interests – morality itself is not the expression of any particular interest; thirdly, that those rules are also neutral between rival and competing sets of beliefs about what the best way for human beings to live is; fourthly, that the units which provide the subject-matter of morality as well as its agents are individual human beings and that in moral evaluations each individual is to count for
positions lead the liberal thinker to conclude that “to judge from a moral standpoint is to judge impersonally. It is to judge as any rational person would judge, independently of his or her interests, affections and social position.” 12 From this perspective, it is obvious that there is a conflict between liberal morality and patriotism. Patriotism requires that one take into account individual relationships and affections when deliberating about what morality requires. If patriotism is to be a virtue, then contingent facts such as where one was born and raised and who one’s parents are must be allowed to have moral importance. The position of the patriot is not a position of neutrality.

If patriotism is to be a virtue, then morality must be understood as socially specific and particularized. MacIntyre offers three basic propositions which underlie what he calls the “morality of patriotism.” The first proposition is that human beings apprehend the rules of morality through the way of life, customs, traditions, and practices of a particular community. Secondly, it is not only true that we learn morality in a specific context, but also that the goods by which the rules of morality are justified are socially specific goods. In other words, the rules of morality are designed in order to preserve a particular way of life and without that particular way of life they cannot be explained or justified. It follows that without that particular community and way of life one would have no reason to behave morally. If the justification for the rules of morality is drawn from a particular community and its particular goods, then a person’s allegiance to those rules is likewise justified. In addition, MacIntyre contends that human beings

one and nobody for more than one; and fifthly, that the standpoint of the moral agent constituted by allegiance to these rules is one and the same for all moral agents and as such is independent of all social particularity.” Ibid, 47.

12 Ibid., 45.
need communal support for moral behavior. Obeying the rules of morality makes no sense if others do not also obey them. If all of these propositions are true, then a human being cannot “flourish as a moral agent” outside of a particular community. Thus, patriotism becomes not just a virtue but the ur-virtue because allegiance to a particular community “could not be meaningfully contrasted with or counterposed [sic] to what morality require[s].”

MacIntyre goes on to argue that, despite the efforts of some liberal thinkers, patriotism and liberal morality cannot be made compatible with one another. Some liberal thinkers have suggested that patriotism, or a feeling of loyalty and devotion towards one’s country, can be acceptable as long as the patriot never violates that constraints of impersonal liberal morality. MacIntyre maintains, however, that such a balance cannot be struck because a patriotism that is hemmed in by impersonal morality is an “emasculated” patriotism. The patriot who accepts the dictates of impersonal morality cannot be a genuine patriot because he or she cannot support the right of his or her particular community to exist over the rights of others. When two particular political communities come into conflict, either over scarcity of resources or mutually

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13 “If first of all it is the case that I can only apprehend the rules of morality in the version in which they are incarnated in some specific community; and if secondly it is the case that the justification of morality must be in terms of particular goods enjoyed within the life of particular communities; and if thirdly it is the case that I am characteristically brought into being and maintained as a moral agent only through particular kinds of moral sustenance afforded by my community, then it is clear that deprived of this community, I am unlikely to flourish as a moral agent. Hence my allegiance to the community and what it requires of me – even to the point of requiring me to die to sustain its life – could not meaningfully be contrasted with or counterposed to what morality required of me. Detached from my community, I will be apt to lose my hold upon all genuine standards of judgment. Loyalty to that community, to the hierarchy of particular kinship, particular local community, and particular natural community, is on this view a prerequisite for morality. So patriotism and those loyalties cognate to it are not just virtues but central virtues.” Ibid., 50.

14 Ibid., 46.
incompatible practices and ways of life, impersonal morality does not allow for the preservation of one’s own community simply because it is one’s own.

In addition, liberal morality, according to MacIntyre, attempts to free a human being from his or her own particular circumstances because it is only through such detachment that we can become genuinely autonomous moral agents. At the heart of liberal morality is the proposition that no object, no practice, no rule or tradition can be exempted from rational criticism by the autonomous moral agent. The morality of patriotism, on the other hand, requires that the right of a particular community to exist must be taken for granted. What must be exempted from rational questioning and criticism is “the nation conceived as a project, a project somehow or other brought to birth in the past and carried on so that a morally distinctive community was brought into being which embodied a claim to political autonomy in its various organized and institutionalized expressions.”\(^{15}\) A patriot can criticize and be opposed to the various rulers and/or practices of his current government, but the existence of his nation itself as a distinctive human project must be held sacrosanct.

MacIntyre comes to the conclusion that both liberal morality and the morality of patriotism, as he understands them, have the potential to be a “permanent source of moral danger.”\(^{16}\) The patriot can find some limits to his behavior within the particularized morality of his own community, but he still must exempt the existence of that community itself and his ties to it from rational criticism. Liberal morality, on the other hand, places the political community in permanent danger of dissolving because it can offer no

\(^{15}\) Ibid., 52.

\(^{16}\) Ibid., 56.
rational justification for sacrificing one’s life in order to preserve that community. Thus, MacIntyre maintains that liberal morality and the morality of patriotism are both fundamentally incompatible with one another and potentially dangerous. He holds out the possibility, however, that both of these moral systems are essentially mistaken in their positions and that, therefore, there exists the potential for an understanding of morality which can both justify and limit patriotism.

The purpose of this dissertation is to explore, evaluate and expand on the claims that MacIntyre makes in this essay. I turn first to Martha Nussbaum and her capabilities theory as a representative of what MacIntyre calls “liberal morality.” Nussbaum’s essay “Patriotism and Cosmopolitanism” and the many responses to it form one of the core texts in the contemporary literature on patriotism.17 In it, she criticizes patriotism because it allows contingent and therefore “morally irrelevant” characteristics to enter into our deliberations about our moral obligations. In this way, she is clearly a partisan of impersonal morality. Nussbaum’s capabilities theory, however, does not fit neatly into MacIntyre’s general understanding of liberal morality because, unlike for example John Rawls, she is not committed to arguing for the importance of the right over the good. Nussbaum is committed to a universal and substantive understanding of human flourishing, however, as we shall see, she attempts to maintain her position as a liberal theorist by making a distinction between capabilities and functioning.

The obligations of justice, both for individuals and institutions, extend only to providing all human beings with a basic threshold level of the capabilities that they need

for flourishing, not to making sure that they actually flourish. Given the fact that many of the problems which MacIntyre associates with liberal morality stem from the requirement of neutrality, Nussbaum’s rejection of the idea of neutrality with regard to competing ideas of the good raises at least the possibility that her version of liberal morality will not fall prey to MacIntyre’s critique. In Part I of this dissertation, therefore, I explore Nussbaum’s critique of patriotism, her positive capabilities theory, and the attempt that she makes to in her most recent work to formulate a morally acceptable form of “purified patriotism.” I attempt to reveal the problems associated with an understanding of justice which removes all consideration of the sort of particular relationships on which patriotism is founded, as well as the way in which Nussbaum fails to fully appreciate the emotional content of patriotism and how particular attachments are formed.

In Part II, I take up more explicitly MacIntyre’s claim that all attempts to combine liberalism and patriotism must inevitably fail. The concept of “constitutional patriotism,” first formulated by the German philosopher Jürgen Habermas, is one such attempt that has gained a great deal of popularity in recent years. Constitutional patriotism attempts to make patriotism safe for liberalism by changing the object of the patriot’s affection from a particular country to the fundamental principle of liberalism itself, i.e. a commitment to the notion that all human beings are free and equal simply by virtue of the fact that they are human beings. In this way, the behavior of the patriot is limited by the requirements of this universal principle. Changing the object of the patriot’s affection from a concrete nation-state to an idea or a principle allows for unity among citizens who do not possess the same culture, ethnicity or religion. Therefore, constitutional patriotism is seen as a positive resource for unifying pluralistic states and political entities which
extend beyond traditional nation-state boundaries, such as the European Union. In Part II of this dissertation, I take up the version of constitutional patriotism articulated by Jan-Werner Müller. In his book *Constitutional Patriotism*, Müller attempts to lay out a comprehensive theory of constitutional patriotism which is independent of Habermas’ wider political and ethical theory and is potentially compatible with a variety of different types of liberalism. I endeavor to show how Müller’s attempt to construct a version of patriotism which is specific enough to be useful while at the same time general enough to be inclusive ultimately fails to achieve either of these goals.

In Part III of the dissertation, I take up the challenge of MacIntyre’s conclusion by attempting to sketch the outlines of an understanding of patriotism which both takes into account the social embeddedness of all human life and yet contains some universal principles which can act as a limit on the acceptable behavior of the patriot. MacIntyre is perfectly correct to suggest that, in order for patriotism to be considered a virtue, particular relationships, in and of themselves, cannot be irrelevant to the question of justice. Any theory of justice must take into account the fact that when an individual asks the question “what are my duties in justice?” he or she always does so from within an already existing network of relationships and past transactions. In this way, MacIntyre is correct to suggest that justice is essentially community based. On the other hand, certain universal principles of justice can be formulated based upon a universal (if highly generalized) understanding of human nature. There are such things as universally anti-social behaviors, such as murder and theft, which will be destructive of any of the many communities of which human beings are a part. When we encounter another individual, 

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we can understand what our universal obligations towards that person might be by imagining what sort of behaviors would be destructive of the community of which we are both a part. These universally anti-social behaviors can act as an important limiting factor upon patriotism and the behavior of the patriot.

In addition, the most important factor which is absent from MacIntyre’s “morality of patriotism” is the idea of the essential finitude of all particular communities. It may true that human beings need communities for moral agency and support, but it is undeniably true that no particular community lasts forever. An essential limiting factor on the behavior of the patriot is that while human beings are always members of political communities of some sort, all particular political communities eventually cease to exist. They are destroyed either by lack of resources or by increasing disagreement within the community about its particular end. At a certain point all particular political communities degenerate to the point where nothing can save them from collapse. When this happens, the “nation conceived as a project” can no longer be taken for granted or exempted from rational criticism.19 Patriotism ceases to be a consideration when a political community can no longer function because at that point it is no longer a political community, strictly speaking. It is then incumbent upon citizens to construct a new political community on the ashes of the old one and transfer their allegiance accordingly.

The universal requirements of justice and the finitude of all particular political communities both act as limits on the proper behavior of a patriot, limits which are, for the most part, independent of the particular understanding of justice which is operative within a specific community. In this way, I am able to avoid what is, perhaps, the most

19 MacIntyre, “Patriotism,” 52.
controversial element of MacIntyre’s morality of patriotism: the notion that what is required of a patriot cannot be “meaningfully contrasted with or counterposed [*sic*] to what morality require[s].”20 There are limits to the demands that a political community can make of its citizens and there are limits to the effort that a patriot should expend to keep his political community functioning.

In addition, it is my contention that the relationship between the patriot and his or her political community is best understood not in terms of justice, but in terms of friendship. Justice involves giving to another what is their due. As Aristotle tells us, justice is about establishing equality. This can be a proportional equality between a person and what they deserve or an arithmetic equality between two persons one of whom has taken something from the other. When it comes to either distribution or retribution, there is a sense that one should give back to a person exactly what they have given. Friendship, on the other hand, operates in the realm of what Thomas Aquinas calls “gratuitous favors” (*beneficii gratuiti*).21 A friend does not love in proportion to how much she has been loved, nor does a friend give back only in proportion to what she has received. A friend desires the good of the object of her love and does everything within her power to promote that good. This will include a variety of behaviors from criticism of the object to the provision of material support. I would argue, however, that it is only when we understand patriotism as a type of friendship that we can properly explain how it comes about, how it manifests itself, what it requires, and what its limits are.

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20 Ibid, 50.

21 See Chapter 6, footnote 29.
PART I

LIBERAL MORALITY AND THE CRITIQUE OF PATRIOTISM
CHAPTER 1:
NUSSBAUM ON THE MORALITY OF PATRIOTISM

1.1 Introduction

The philosophy of Martha Nussbaum represents an example of what MacIntyre refers to as “liberal morality” and which he claims is fundamentally opposed to the “morality of patriotism.” Through an examination of both Nussbaum’s critique of patriotism and her positive argument for universal human capabilities we can explore the validity of MacIntyre’s position that liberal morality cannot consistently acknowledge patriotism to be a virtue. Nussbaum, like many critics of patriotism, acknowledges both its emotional appeal and its potential usefulness. Her early work, including her essay “Patriotism and Cosmopolitanism” (1996) and her books *Women and Human Development* (2000) and *Frontiers of Justice* (2006) clearly support a position that is strongly critical of patriotism and supportive of a more cosmopolitan outlook. More recently however, Nussbaum has shown tentative support for what she calls “purified patriotism” in an attempt to harness the usefulness of patriotism while at the same time avoiding the moral pitfalls which she thinks are associated with traditional patriotism.

My approach to Nussbaum’s thought will be to take up first of all her critique of patriotism, both as a passion and as a set of activities, and the positive theory of universal human capabilities on which it is based. I intend to show both how Nussbaum’s capabilities theory is internally inconsistent, especially her support for the continued
existence of individual sovereign nation states, and how her theory reveals some of the flaws inherent in a liberal universalist approach to morality, particularly with regard to the problematic distinction between capabilities and functioning. Nussbaum’s support for “purified patriotism” will be taken up in the next chapter. It is my contention, first of all, that this concept really cannot be called patriotism at all, and secondly that it is essentially a type of cosmopolitan compassion which cannot replace patriotism as a method of motivating moral action or uniting political communities.

Nussbaum’s essay, “Patriotism and Cosmopolitanism” was first published in Boston Review in 1994 and written as a reply to an op-ed piece by Richard Rorty in the New York Times. This essay together with the critiques of eleven contemporary scholars and Nussbaum’s “Reply” to these critiques were later collected and published in the 1996 volume For Love of Country: Debating the Limits of Patriotism. In his op-ed piece Rorty had suggested that it was time for the American left to embrace patriotism for (unsurprisingly) purely pragmatic reasons. Without some sense of national pride or affection for one’s country, Rorty argued, it is impossible to successfully affect positive change in that country. If we do not have affection for our country, if we do not have pride in what it is and what it can become, we will have not be motivated to work for its improvement.

Nussbaum, however, thinks that Rorty’s endorsement of patriotism is much too hasty. She does not address his primary contention about pride as a necessary condition of reform, but she does feel it necessary to respond to what she sees as an attempt by Rorty (and others) to rehabilitate patriotism as a counterweight to the increased
prevalence and popularity of the “politics of difference.” Rorty holds up national identity as an alternative to a politics based upon differences of sex, race, ethnicity, etc. Much as she deplores this politics of difference, Nussbaum sees patriotism as equally if not more dangerous. Divisions among nationalities (divisions that must be embraced by the patriot) are, she contends, just as irrelevant to the question of moral duties as divisions of sex and race. Feelings of patriotism or national pride encourage people to think in terms that are morally irrelevant. Even worse, such feelings of national pride can lead them to act in violation of the requirements of justice. She uses her essay to argue that, no matter how colorful and passionate the ideals of patriotism seem to be, they are in fact dangerously wrongheaded.

As we turn to look at Nussbaum’s argument against patriotism in some greater detail, it is important first of all to be clear on exactly what we mean by the term “patriotism.” Nussbaum herself never explicitly defines it. She does, however, structure her essay around a discussion of Rabindranath Tagore’s novel The Home and the World in which the cosmopolitan hero Nikhil rejects the jingoistic patriotic movement “Swadeshi” (whose motto is “Bande Mataram” or “Hail Motherland”) embraced by his wife Bimala and his friend Sandip. Nussbaum equates patriotism in general with the basic principles of the Indian nationalist movement, “Bande Mataram.” These principles (which she claims are also embraced by Americans) include allowing nationality to have “a special salience in moral and political deliberation” and allowing national pride and identity “a special power among the motivations to political action.”

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23 Ibid., 3.
“Swadeshi” organizes a boycott of foreign goods encouraging people to buy goods that are manufactured locally. Tagore’s hero Nikhil appears passionless and dull in his cosmopolitanism next to the colorful and ardent zealotry of Sandip. However, these appearances are deceptive and Bimala comes to see (too late as it turns out) that “Nikhil’s morality was vastly superior to Sandip’s empty symbol-mongering, that what looked like passion in Sandip was egocentric self-exaltation, and that what looked like lack of passion in Nikhil contained a truly loving perception of her as a person.”

Nussbaum’s use of Tagore’s novel as the organizing principle of her essay and how she portrays the novel’s central conflict reveal much about what she believes patriotism to be.

First, we can say that Nussbaum believes patriotism to be made up of both emotions and actions. In terms of action, the patriot is one who allows considerations of nationality to enter into his moral and political deliberations. Specifically, the patriot exhibits a tendency to prefer the interests of his own country and his fellow citizens above the interests of other nations and foreigners in the distribution of burdens and benefits that is the practice of justice. Sandip and his nationalist movement advocate buying goods that are locally made, preferring to promote the economic prosperity of India at the expense of other nations. The cosmopolitan, on the other hand, is a “citizen of the world” as the ancient Stoic philosophers put it. It is the world community of human beings rather than any individual local community which is the source of his moral obligations. The common humanity which we all share and the common needs which we all possess are our only morally relevant characteristics. The cosmopolitan treats each person according to his needs regardless of his race, gender or nationality.

24 Ibid., 15-6.
is Nikhil who in his quiet way attempts to conform his behavior to these universal standards of justice.25

Nussbaum equates patriotism with several other “isms” which she categorically denounces – racism, sexism, ethnocentrism and classism. All of these “isms” rely upon distinctions between human beings which Nussbaum considers to be “morally irrelevant.”26 Skin color, gender, class, etc. are all accidents of birth and should, therefore, in no way effect the moral duties that we have towards one another. It is irrational to treat people differently based upon these sorts of superficial characteristics. Nussbaum sees the borders between different nations as similarly morally irrelevant. The boundaries that divide nations from each other are the result of a set of contingent historical events, usually involving war and conquest. Change any one of those events and the boundaries of our nation as they now exist could be vastly different. These arbitrary historical events have no moral relevancy in Nussbaum’s view, and she maintains that we should not penalize people for living on the other side of some line on a map any more than we should do so because they happen to have a different skin color. Patriotism is especially morally dangerous because encouraging people to take one sort of arbitrary distinction seriously may encourage them to take others seriously as well. In other words, although patriotism may seem benign it can encourage more obviously destructive things like racism and sexism.27

26 Ibid, 5.
27 “Once someone has said, I am an Indian first, a citizen of the world second, once he or she has made that morally questionable move of self-definition by a morally irrelevant characteristic, then what, indeed, will stop that person from saying, as Tagore’s characters so quickly learn to say, I am a Hindu first, and an Indian second, or I am an upper-caste landlord first, and a Hindu second? Only the cosmopolitan
Thus we can see that according to Nussbaum it is illegitimate to allow considerations of nationality to enter into our deliberations about justice in the same way that it is illegitimate to consider race or gender or ethnicity in such a context. Nussbaum believes that when we are deliberating about justice, that is, when we are trying to decide how to distribute various burdens and benefits among various people, the only legitimate considerations are the resources that a person already possesses and the needs that they have. This position is based on what we might call Nussbaum’s positive theory of universal human rights, what she herself call the “capabilities approach.” In order to understand fully Nussbaum’s moral objections to patriotism we must explore in some detail her theory of justice based upon the notion of basic human capabilities.

1.2 The Capabilities Approach

Nussbaum’s moral objections to patriotism, both the activity of preferring the interests of one’s own country and fellow citizens and the emotions which promote that activity, are based upon her own positive ethical theory. Nussbaum’s own version of a theory of universal human rights, what she calls her “capabilities approach,” is grounded in a firm belief in the fundamental moral equality of all human beings. She structures her theory of justice around those things which all human being have in common, rather than the superficial and “morally irrelevant” characteristics which divide us from one another.

It is Nussbaum’s contention that everyone should have the opportunity to live a life that

stance of the landlord Nikhil – so boringly flat in the eyes of his young wife Bimala and his passionate nationalist friend Sandip – has the promise of transcending these divisions, because only this stance asks us to give our first allegiance to what is morally good – and that which, being good, I can commend as such to all human beings.” Ibid.
is worthy of the dignity of a human being. Everyone should have (as far as is possible) an equal opportunity to flourish in a characteristically human way regardless of their race, gender or nationality. It is in pursuit of this goal and with this end result in mind that Nussbaum constructs her capabilities approach. This section will begin with a sketch of the basic precepts of the capabilities approach.

Nussbaum first outlines her capabilities approach in the book *Women and Human Development* (2000). Here she states that the overall goal of her project is “to provide the philosophical underpinning for an account of basic constitutional principles that should be respected and implemented by the governments of all nations, as a bare minimum of what respect for human dignity requires.”\(^2\) In other words, Nussbaum wants to construct a theory of our moral obligations which applies to all human beings and can be used as a guiding principle for constructing and reforming the political systems of various individual countries. The entire edifice of Nussbaum’s moral theory is built upon a moral intuition about the nature of human beings. She writes, “The basic intuitive idea of my version of the capabilities approach is that we begin with a conception of the dignity of the human being and of a life that is worthy of that dignity.”\(^3\) The idea here is that there is such a thing as living well or flourishing and there is such a thing as living badly or failing to flourish. In addition, we can make some specific determinations about what it means to live well, what resources and what behaviors it entails.

\(^{2}\) Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge, UK: Cambridge University Press, 2000, 5. Nussbaum reiterates this as her purpose in *Frontiers of Justice: Disabilities, Nationality and Species Membership* (Cambridge: Harvard University Press, 2006). *Frontiers of Justice* builds upon and expands (with a few alterations) the capabilities theory as outlined in *Women and Human Development*. I shall primarily be relying upon *Women and Human Development* for this sketch, but some references to *Frontiers of Justice* will be used.

\(^{3}\) Nussbaum, *Frontiers of Justice*, 74.
Living well or living a life that is worthy of human dignity means, according to Nussbaum, acting in such a way as to make use of or fulfill our basic human capacities. She explains this idea in the following way: “The intuitive idea behind the [capabilities] approach is twofold: first that certain functions are particularly central to human life, in the sense that their presence of absence is typically understood to be a mark of the presence of absence of human life; and second, - this is what Marx found in Aristotle – that there is something that it is to do these functions in a truly human way, not a merely animal way.”\(^{30}\) In other words, Nussbaum argues, when we ask ourselves what it means to be human we can identify certain activities or functions that are necessary to the existence of human life. Here she means not only such basic things as sleeping, eating and procreating, but also speaking, using practical reason, and engaging in social relations with other human beings. In general, she argues, if these functions are not present or the being in question is totally incapable of them we may doubt the being’s humanity.\(^{31}\) In this way we can identify, in general, those activities which are essential to human life and those which are accidental. Because we can do this across national borders, cultures and time periods, we can say that there is something that is a human life.

The second intuition Nussbaum discusses is the idea that there is a particular way of doing these activities or performing these functions that is peculiarly human. By this Nussbaum seems to mean that the activities we perform must be chosen rather than compelled, must be the result of a process of practical deliberation, and must be done in a


31 “At one extreme, we may judge that the absence of capability for a central function is so acute that the person is not really a human being at all or any longer – as in the case of certain very severe forms of mental disability or senile dementia” (Ibid, 73).
manner which takes account of our natural human sociability. She uses an example, which she borrows from Marx, of the starving man who grabs at his food for mere survival. Compelled by the overwhelming needs of his body, the starving man is unable to eat in a truly human way – choosing what he would like and conforming to social usages such as table manners. The starving man is eating, as all human beings must, but he is not performing this functioning in the way in which he as a human being is capable of. Nussbaum also argues that “the senses of a human being can operate at a merely animal level – if they are not cultivated by appropriate education, by leisure for play and self-expression, by valuable associations with others.”32 As human beings we possess a variety of capacities which animals do not possess, but if we do not cultivate them to their highest potential then we are not living a life that is worthy of human dignity.

To live in a truly human way, to flourish, we must not be consumed by the quest for mere survival. If every day is a constant struggle to find food and shelter, then we will never be able to develop to our full potential, to develop those of our characteristics which are peculiarly human. Nussbaum’s moral intuition about human flourishing comes down to this: a life that is worthy of the dignity of a human being must be one that is the result of rational deliberation and choice, one in which we perform the central functions of human life in a way that reflects our capacity to shape our own lives rather than to have them shaped for us. “The core idea is that of the human being as a dignified free being who shapes his or her own life in cooperation and reciprocity with others, rather than being passively shaped or pushed around by the world in the manner of a ‘flock’ or

32 Ibid.
‘herd’ animal.”33 This moral intuition is reflected in the sense of waste and tragedy that we feel when faced with the prospect of someone whose human capacities are left undeveloped, whose potential is unfulfilled or blighted by the circumstances of fate.34

Nussbaum specifies and makes determinate this “intuitive conception of truly human functioning” by means of her list of ten central human capabilities.35 Nussbaum identifies ten different areas or human life in which people must develop and cultivate their innate capacities in order to live a life that is worthy of human dignity.36 Some of these areas involve basic bodily needs like food, health, and shelter while others involve

33 Ibid.

34 Nussbaum argues that the truth of her moral intuition is reflected in “the idea that lies at the heart of tragic artworks, in whatever culture.” She exhorts her readers: “Think of the tragic character, assailed by fortune. We react to the spectacle of humanity so assailed in a way very different from the way we react to a storm blowing grains of sand in the wind. For we see a human being as having worth as an end, a kind of awe-inspiring something that makes it horrible to see this person beaten down by the currents of chance – and wonderful, at the same time to witness the way in which chance has not completely eclipsed the humanity of the person.” Women and Human Development, 72-3. There is something compelling about Nussbaum’s point here because we often do speak about tragic figures as victims who are bludgeoned by fate. But I would suggest that the contrast which Nussbaum sets up here between the tragic victim of fate and the “dignified free being” is not an entirely accurate one. We are all, so to speak, at the mercy of fate. Circumstances which are beyond our control will always shape the choices that we are given. We will never have control over those circumstances and the best that we can do is to choose the good out of the options with which we have been presented. The case of the tragic hero is tragic because he is presented by fate with a series of bad options – circumstances in which there is no right answer or in which the morally right choice still leads to great unhappiness. We feel for the tragic hero because his fate could so easily be ours. His humanity and his heroism stand out when he does the good or attempts to do the good despite the unfavorable circumstances. To be slapped around by fate is, I would argue, an ineliminable part of the human condition. It is how you respond in the circumstances that you are given which constitutes a well or ill-lived human life.

35 Ibid., 76.

36 The list of central human capabilities is found in both Women and Human Development (78-80) and Frontiers of Justice (76-8). Nussbaum describes them as follows: (1) Life – Being able to live to the end of a normal human life. (2) Bodily Health – adequate nourishment, health, and shelter. (3) Bodily Integrity – being free from assault and free to move from place to place. (4) Senses, Imagination and Thought – Being able to use senses/imagination and to think/reason; this requires education and freedom of expression. (5) Emotions – having a healthy emotional life; being able to form attachments. (6) Practical reason – being able to form a conception of the good life and to think critically about it. (7) Affiliation – being able to live in relationships with others; having the social basis of self-respect and non-humiliation. (8) Other species – being able to live in harmony with nature. (9) Play – having leisure for recreation. (10) Control over one’s own environment – being able to participate in politics; being able to hold property.
spiritual or psychological needs like sociability and emotional attachment. Nussbaum emphasizes that “Human beings are creatures such that, provided with the right educational and material support, they can become fully capable of all these human functions.”37 In other words, while all (or almost all) human beings possess these capabilities innately, they must be cultivated and they often build upon one another. For example, in order to have the capacity to form healthy emotional attachments (capability #5), one must also possess life, bodily health, and bodily integrity (capabilities #1-3). Nussbaum insists that human beings should be viewed as political animals (following in the footsteps of Aristotle), that is, as beings in which rationality and animality are “thoroughly unified.”38 All the advanced powers of human beings have material and educational underpinnings which must be provided for.

The idea of capabilities is not the same as the idea of innate capacities or resources or even primary goods (as John Rawls understands them). To ask what a person’s capabilities are is to ask what he or she is truly able to do or to be. The answer to this question depends not just on the material resources a person possesses but also on what the law permits, what the culture sanctions, and what the person’s education allows, among other things. To have the capability for freedom of expression, for example, means not just that the government refrains from actively abridging that freedom. It also means that the culture supports the individual’s right to express herself and that she has the economic and educational resources necessary to do so. To live the life of a “dignified free being” we must shape our lives according to our own design and because

37 Nussbaum, Women and Human Development, 83.

38 Nussbaum, Frontiers of Justice, 159.
we are enfleshed beings mental and physical burdens can interfere with our ability exert
genuine control over our lives. Nussbaum insists that, “the various liberties of choice
have material preconditions, in whose absence there is merely a simulacrum of choice.”
To genuinely have a capability means that there is nothing (or almost nothing) whether
material, psychological or legal standing in the way of one fulfilling the end in question.
Nussbaum’s capabilities extend beyond the bounds of material resources and political
liberties into the realms of education, emotional development, and social relations and,
indeed, all the way to the philosophical search for the good life. It is only with attention
to all of these things, she contends, that we can empower genuine freedom.

The essential idea is that these capacities, which all human beings possess, are
crying out to be developed. Nussbaum argues “the basic intuition from which the
capability approach begins, in the political arena, is that certain human abilities exert a
moral claim that they should be developed.” Here Nussbaum asserts that it is right that
human beings develop their inherent abilities as far as is possible. Now a certain amount
of this development will be solely within the province of the individual to choose, but the
material and psychological and educational prerequisites or capabilities for that
development can and should be provided to him or her by other individuals or by society.
This is the basic claim of Nussbaum’s theory of justice: every human being, simply by
virtue of being a human being, is entitled as a matter of justice to those capabilities
necessary for living a truly human life. Nussbaum contends that there is a certain
“threshold” level in each of the capability areas below which it is not possible to live a

39 Nussbaum, Women and Human Development, 53.
40 Ibid., 83.
truly human life. In order to be considered to be minimally just a society must provide each and every one of its members with that threshold level in each of the capability areas.

It is important to note, however, that having the capability to perform a certain activity does not necessarily mean that one will avail oneself of that opportunity. Capability, as Nussbaum defines it, involves only the capacity (having both the internal and external resources) to perform a certain activity. The actual performance of that activity, what Nussbaum calls “functioning,” is not the subject of her immediate concern. She acknowledges that a life worthy of human dignity requires not merely potency but also act. “It is perfectly true that functioning, not simply capabilities, are what render a life fully human, in the sense that if there were no functioning of any kind in a life, we could hardly applaud it, no matter what opportunities it contained.” Like Aristotle, Nussbaum understands the human good as a certain sort of activity rather than a state of being or a condition of the soul. However, her capabilities approach is concerned primarily with the potential or capacity for human flourishing because she is interested in constructing a liberal rather than an Aristotelian or virtue-based theory of justice.

41 Ibid., 74.

42 What exactly constitutes a threshold level in each of the capability areas is a complicated question and Nussbaum never gives a specific answer. Nussbaum contends that a threshold level of capabilities does not always mean “capability equality” (Women and Human Development, 12). In some areas, such as political rights equality may be an appropriate goal. In other areas, such as education greater attention may need to be paid to members of traditionally disadvantaged minorities. Moreover, Nussbaum does insist on “the principle of each person’s capability” (Ibid., 74). In other words, capabilities are the rightful province of individual persons rather than groups. Also, Nussbaum contends that the capabilities on the list represent a plurality of human goods all of which are important, and thus trade-offs between various capabilities on the list are not encouraged (Ibid., 81). Once the threshold level has been met, however, trade-offs and balancing above the threshold level are permitted (Ibid., 212).

43 Ibid., 87.
It is Nussbaum’s contention that all human beings are entitled, as a matter of justice, not to actually live a life in accordance with human dignity but to have all the necessary resources to do so, should they so desire. Nussbaum limits this entitlement to a certain threshold level of capabilities rather than functioning out of concern for the autonomy which lies at the root of her intuitive conception of human dignity. She argues that “the respect we have for people and their choices” dictates that “even when we feel confident that we know what a flourishing life is, and that a particular function plays and important role in it, we do not respect people when we dragoon them into this functioning.” As was mentioned above, Nussbaum maintains that what makes an activity truly human is the fact that it is freely chosen rather than compelled by the will of others or by the brute force of circumstance. A good activity or decision is less worthwhile, less valuable, when it is compelled rather than when it is freely chosen. That final step, therefore, the actual performance of those activities which are part of flourishing human life must be the result of free choice on the part of the individual. If such activities were compelled, either by the government or societal pressure, then the individual would not be truly living in accord with his or her nature as an autonomous being.

We can now see why capabilities as opposed to functioning are the subject of Nussbaum’s theory of justice. Justice is concerned with entitlements, that which we are owed and that which we owe to others. We cannot be owed functioning and we cannot

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44 Ibid., 88.

45 A similar type of argument, Nussbaum points out, is often used in support of religious toleration. Religious observances that are compelled by the law or by social pressure are less valuable than those that are a result of a freely chosen faith (*Women and Human Development*, 88).
owe to others because true functioning is contingent upon the free choice of the individual. We cannot be entitled to a life of truly human flourishing because such a life cannot be given or received, it can only be chosen and lived. What we are entitled to, and we can be given, are the resources necessary to choose and live such a life. And whom are we entitled to such resources from? Who has the duty to provide us with the capabilities on the list? Nussbaum’s first answer to this question is that everyone has the duty to see that everyone else reaches the threshold level of capabilities to which they are entitled. “If human beings have such entitlements, then we are all under a collective obligation to provide the people of the world with what they need.”

The first and primary dictate of justice is that all human beings, regardless of race, color, creed or nationality, are entitled to the capabilities that are minimally necessary for living a life of dignity. The corollary to this is that every person has a general to duty to see that every other person possesses those capabilities.

In general we all possess the duty to provide for each others’ capabilities, however, in actual practice this duty devolves upon institutions – domestic and international, governmental and nongovernmental. Nussbaum thinks that primary responsibility for providing for capabilities should be transferred from individuals to institutions for the fundamental reason that individuals simply are not capable of carrying out the demands of her theory of justice. Institutions are capable of confronting collective action and free rider problems, organizing a complicated distribution apparatus, and coercing individual compliance with the demands of justice. Moreover, Nussbaum

46 Nussbaum, Frontiers of Justice, 280.

realizes that were individuals to take on all the responsibility of providing for capabilities – even just the capabilities of those in their immediate vicinity – they would have no time to do anything else. “The injunction to promote human capabilities [would] devour the lives of each person, removing personal projects, concerns, and space to such an extent that nobody at all [would have] the chance to lead a truly human life.” To avoid the prospect of people being crushed by the weight of their own duties, Nussbaum assigns the duties to institutions instead of to individuals. The institutions in turn impose certain restrictions and duties upon individuals (such as paying taxes), but beyond such strictures “people are free to use their money and time and other resources as their own comprehensive conception of the good dictates.” Which institutions should take on which capabilities and how the institutions should work together is a matter of practical arrangement which can be worked out in whatever manner is most efficient. But, as we shall discuss in more detail later on, Nussbaum envisions the continued existence of individual nation-states whose governments have the primary responsibility to provide a threshold level of capabilities to their own citizens. Along with these individual states will be a variety of non-governmental international organizations which will seek to equitably distribute capabilities across national boundaries.

Before moving on it will be appropriate to discuss for a moment the methodology which lies at the root of Nussbaum’s theory of justice. Nussbaum freely acknowledges that her capabilities theory is founded upon moral intuitions. Her basic moral intuition about the essential dignity of the human person and the type of activities which render a

48 Ibid., 309.
49 Ibid., 310.
life worthy of that dignity is, she claims, “a freestanding moral idea, not one that relies on a particular metaphysical or teleological view.” This foundation is not a weak one, however, because she believes that it can be supported by “a broad cross-cultural consensus.” She believes that the idea of human dignity can be subscribed to by people with a wide variety of different comprehensive belief systems. In this way, she follows in the footsteps of Rawls, seeking to support her theory of justice by means of an “overlapping consensus” rather than by any cumbersome metaphysical structure. The specific list of central capabilities is formed by a process which Nussbaum describes as both “intuitive and discursive.” One decides if a capability should be included on the list by imagining a life without that capability. Would such a life still be identifiably human? Would it be worthy of the dignity of a human being? One must consider a variety of perspectives and arguments when attempting to make such a decision. Nussbaum stresses that the list is and always must be open for continuous revision by this sort of dialectical process. She also emphasizes that there is room within her system for a variety of different cultural practices because the capabilities on the list can be realized concretely in different ways.

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50 Nussbaum, *Women and Human Development*, 83 (emphasis original).

51 Ibid., 74.

52 “Although this list of central capabilities is somewhat different in both structure and substance from Rawls’ list of primary goods, it is offered in a similar political-liberal spirit: as a list that can be endorsed for political purposes, as the moral basis of central constitutional guarantees, by people who otherwise have very different views of what a complete good life for human being would be” (*Women and Human Development*, 74).

53 Nussbaum, *Frontiers of Justice*, 78.

54 Nussbaum, *Women and Human Development*, 77.
Nussbaum is fairly upfront about her reliance upon moral intuitions to construct her theory because she is confident that her moral intuitions can gain a broad consensus. In this regard, she claims that her theory and the contractarian theories, like that of Rawls, are on roughly the same footing. The contractarians, she claims, rely upon moral intuition in the construction of their procedural apparatus. Rawls’ theory of justice is one level removed from his considered moral judgments, but Nussbaum does not consider that this distinction is significant.\footnote{“We can agree that the capabilities approach does indeed rely on intuition – although not on uncriticized preferences, as its critique of Utilitarianism makes plain. That is, some deep moral intuitions and considered judgments about human dignity do play a fundamental role in the theory, although they are never immune from criticism in the light of other elements of the theory. But it is plain that contractarians, too, rely on intuitions and considered judgments, in the design of the procedure itself. So it is not terribly clear that the difference is significant” (Nussbaum, \textit{Frontiers of Justice}, 84).} It is not my purpose here to engage in an extended critique of Nussbaum’s methodology, but I will pause to make a few observations. First, Nussbaum’s candid admission of her reliance upon moral intuitions is refreshing and I believe that her point about the role which intuition plays in Rawls’ theory of justice is a valid one. However, Rawls’ reliance upon a contractarian method at least allows him to explain the source of the obligation to abide by his rules of justice. Nussbaum freely admits that the requirements of her theory of justice can in no way be construed to be to the advantage of all parties, but she never attempts to offer an alternative theory of obligation.\footnote{See for example Nussbaum, \textit{Frontiers of Justice}, 226-7.} Second, although I would agree that some reliance upon what Rawls calls “considered moral judgments” and what Nussbaum calls “moral intuitions” is probably necessary for the construction of any compelling ethical theory, without some sort of explanation for why those judgments are relevant it will be very difficult to decide which intuitions we should ignore and which we should take into consideration.
Third, both Nussbaum and Rawls pin their hopes for the vindication of their theories on a broad consensus that never seems to appear. Certainly, the truth of a theory does not rest upon a show of hands, but Nussbaum and Rawls invite such an evaluation through their appeal to the idea of an overlapping consensus. If Rawls has failed to gain anything approaching a broad based consensus for his much less stringent requirements of justice, what reliance can we place upon Nussbaum’s theory succeeding? At the most general level, she is probably correct to assert that most people believe in some idea of innate human dignity, but any further specification of what dignity means, would, I imagine, be widely disputed. Moreover, even if we could agree generally that dignity requires something like the things specified on the capabilities list, it is her contention that all human beings are owed these capabilities as a matter of justice that is the most controversial. To state the argument briefly: We can appreciate the sadness of unfulfilled potential without claiming that that state of affairs is an injustice. Unfulfilled potential can be the fault of the individual concerned or it can be no one’s fault at all. To say that a human being’s capacities cry out to be developed (a point on which a wide consensus might be reached) is not at all the same thing as saying that everyone is owed (by the state and by our fellow human beings) whatever is necessary to develop those capacities. It is this second step, the entrance of justice and rights into the argument, which Nussbaum does not defend – on the basis of moral intuitions or anything else.

Having sketched out the basic principles of Nussbaum’s capabilities theory, it is easy to see why she so strongly rejects patriotism. The basic moral intuition from which Nussbaum begins is the idea that human beings in general possess certain innate capacities which cry out to be fully developed. Although she certainly recognizes that all
individual human beings will possess these capacities in varying degrees, she contends that the entitlement to develop what capacities one does have is universal. Differences between races, sexes, cultures or nationalities do not affect our claim to be “moral equals” and should not affect our capability to develop to our full individual potential.57 She writes, “A focus on capabilities as social goals is closely related to a focus on human equality, in the sense that discrimination on the basis of race, religion, sex, national origin, caste, or ethnicity is taken to be itself a failure of associational capability, a type of indignity or humiliation.”58 To treat anyone differently because of their nationality, to deprive them of the resources which they require to develop their capacities, is to violate the rules of justice as Nussbaum sees them. To raise everyone above the threshold level in each of the capabilities areas will doubtless require “redistributive policies” that extend even across national boundaries.59 To encourage sentiments of patriotism, then, is to encourage divisions that are morally irrelevant and even destructive. Such redistributive policies cannot be implemented if people continue to think that they owe more to their fellow citizens than they owe to the citizens of other nations. Adherence to Nussbaum’s universal theory of justice would seem to require that we discard patriotism and all of its trappings in favor of a cosmopolitan concern for all of our fellow human beings. In order to save patriotism from this fate, it will be necessary to show how Nussbaum’s universalist theory fails.


58 Nussbaum, *Women and Human Development*, 86.

59 Ibid.
1.3 Human Flourishing and the Limits of Liberalism: A Critique of Capabilities

We have seen in the previous section that Nussbaum’s capabilities theory and thus her objections to patriotism are based upon a general understanding of what human flourishing requires and a belief that all human beings are entitled as a matter of justice to the basic capabilities necessary for human flourishing. Thus, Nussbaum, unlike other liberal theorists such as John Rawls, is committed to a substantive understanding of the general human good. She maintains her position as a liberal, however, by making the distinction between capabilities and functioning. Every person is owed the capabilities necessary to flourish, but flourishing also requires that a person freely choose to exercise those capabilities in pursuit of their own particular life plan. It is, in general, not the business of government or anyone else to make sure that a person is actually availing him or herself of the capabilities they possess.

The problem with Nussbaum’s theory is that the distinction between capabilities and functioning turns out to be impossible to maintain in a consistent and principled manner. The idea that there is something which we can say constitutes general human flourishing is not common to liberal theories because liberals, as MacIntyre points out, are generally concerned with leaving open the possibility that people who are committed to many different substantive understandings of the human good can nevertheless commit to a liberal understanding of justice. This is what John Rawls, for example, calls an “overlapping consensus.” Liberals, like Rawls, are interested in securing agreement about “the right” rather than “the good.” Nussbaum’s commitment to a general understanding of human flourishing comes from an underlying allegiance to a type of Aristotelianism which is present throughout her capabilities theory. My objection is not
to a general understanding of human flourishing as such, but rather to the specifics of that understanding and her attempt to combine it with liberal political principles.

The basis for Nussbaum’s Aristotelian commitments and the origins of her capabilities theory can be seen in her first major work, *The Fragility of Goodness*. In this work Nussbaum examines how the Greek tragic poets, Plato and Aristotle all struggle with the question of the extent to which luck, that is, the changing external circumstances of human lives, seems to be able to affect human flourishing or happiness. To summarize her argument briefly: For the ancient Greek tragedians luck often brings competing values into tragic conflict in which there is no absolutely correct moral choice. Luck is ineliminable in human life and profoundly affects our ability to be happy. Plato reacts against this position by drawing a picture of human happiness in which external circumstances play no role. The man with a properly ordered soul is happy no matter whether he is destitute, starving or enslaved. Nussbaum herself rejects this position of Plato’s because, she argues, in eliminating external goods from the human good he has eliminated much of what makes it specifically human. Passion and growth are essential part of human life and a notion of the human good which has no room for them is fundamentally misguided. Nussbaum has great sympathy for Plato’s instinct that human flourishing is in some sense related to self-sufficiency. A life in which one is simply a passive victim of fate does not fit our notion of what it means to be truly human. But neither, she claims, does a life in which our relationships to people and things outside of ourselves are completely unimportant. In his attempt give the individual complete control over happiness. Plato has made that happiness inhuman.
Nussbaum herself speaks more approvingly of a third position, one which she associates with Aristotle, in which both external goods and a proper internal attitude towards those goods are a part of truly human flourishing. It is in Nussbaum’s understanding of Aristotle that we can see the overall goal of her own capabilities project and the premises from which she begins. It is worth quoting her at length here:

Aristotle has, then, argued that an investigation of the ‘appearances’ reveal that social and other-related activity possesses both instrumental and intrinsic value for human beings. He does not regard the evident riskiness and instability of these values in the world as a reason to rule them out of the best life by fiat, or to conclude, against the evidence of intuitive beliefs and poetic stories, that the person who loses them has lost nothing of serious value. Instead he views these facts about politics and society as giving a reason for competent and serious people to turn their attentions to legislation and political planning. Instead of reducing our demands on the world so that they will more consistently be met, we ought, he believes, to increase our activity in and towards the world so that it will more regularly meet our high demands. Instead of decreeing in advance that the only important things are the ones that are already under human control, we try to increase our human control over the important things. This would be the proper way for a human being to pursue self-sufficiency.  

It is important to notice carefully what has happened here. Nussbaum attributes to Aristotle a practical political project which is the exact opposite of Plato’s. Instead of eliminating luck by reducing the content of the human good to those things over which human beings already have control, the object is to assert control, through political and social institutions, over those things which are necessary to the human good.

The fidelity of Nussbaum’s interpretation of Aristotle has been hotly disputed, but it is not necessary for our purposes to delve into these deep waters. What is clear is that Nussbaum understands herself as adhering to the Aristotelian idea that there is an

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identifiably human type of flourishing and that certain things external to the individual human soul are necessary for that flourishing. These external things include material goods such as food and shelter as well as social relationships with other human beings. A human being without a base level of these goods cannot be said to be genuinely flourishing, no matter whether the parts of his soul are properly ordered or not. In addition, these external goods are often a prerequisite for the development of certain innate qualities which we as human beings possess. Our creative and rational faculties exist in us potentially and cannot be fully developed without sufficient attention to our bodily needs.61 Thus, because we are enfleshed beings and naturally sociable our flourishing can never be completely separated from the needs of our physical bodies or our relationships to other people. Our ability to flourish can never be completely under own control. Nussbaum’s argument up to this point is, I might add, fairly compelling. She argues convincingly that human flourishing, in order to be really human, must be a way of living rather than a state of being, that to eliminate all relationships and material objects from one’s notion of happiness is to make decidedly unappealing.

However, Nussbaum also attributes to Aristotle the idea that we should attempt to eliminate, as far as is possible, the role of luck in human flourishing, not by removing external goods from our notion of human flourishing but by exerting control over external goods. Nussbaum’s capabilities theory, I would suggest, is an attempt to do just that. She argues that bodily health and integrity, education, political freedom, healthy

61 Nussbaum finds similarity between Aristotle and Marx on this point and favorably contrasts them to Kant and other modern liberals. “Marx was departing from Kant in some important respects, by stressing (along with Aristotle) that the major powers of a human being need material support and cannot be what they are without it” (Women and Human Development, 73).
emotional relationships, as well as certain material goods are all necessary to human flourishing. These necessary things constitute the capabilities list. She then sets about to make these necessary things more available to everyone on an equal basis, to control, as far as is possible, their relative availability in all of our lives. These things may be impossible for any one individual to control and shape, but we as a group, through our institutions can assert a great deal of control over these things. It is proper “legislation and political planning,” i.e. a proper arrangement of institutions (both governmental and non-governmental), which will provide us with these capabilities. Through institutions we can arrange matters such that everyone (or nearly everyone) has adequate shelter, food and health care; we can provide all of people with the freedom to participate in politics, to express their ideas, to search for their own conception of the good life; we can also attempt to ensure the development of psychological and emotional health in its citizens by monitoring childrearing practices and providing proper education. In this way, the fickle finger of fate, which is no respecter of persons or habits, will be blunted in its effects. In the contest for human flourishing there will be genuine equality of opportunity.62

62 Leaving aside the question of whether or not Nussbaum is correct to attribute to Aristotle this vision of the proper role of the state one might suggest that Nussbaum’s system is, in the end, as utopian and inhuman as the Platonic view which she rejects. Nussbaum argues against Plato that an understanding of the human good which attempts to rid us of our passions and appetites, of our attachment to the constantly changing external world, is not only impossible to achieve but is also unhealthy to attempt. An attempt to “banish contingency from human life” will lose something importantly human, “a vivid sense of the special beauty of the contingent and the mutable” (Frontiers of Justice, 3). But a world in which the government controls and distributes the basic material goods to everyone, where we must simply reach out and take up what we desire, where we have all been educated to properly master our creative powers and have healthy emotional relationships, where we live at peace with one another and our natural environment all this seems as unattainable as Plato’s world in which we are all happy on the rack. It also seems just as inhuman. Nussbaum’s capabilities theory is simply another attempt to eliminate luck from human life, albeit by a different method than Plato employs. All her arguments about the “special beauty” and essential humanness of our constantly changing relationships with other free beings, of our desire to always seek new challenges and to rise to meet the changing circumstances of our lives – all of these apply as strongly
Problems ensue, however, when Nussbaum tries to reconcile her attempt to exert as much control as possible over the resources necessary for human flourishing with her commitment to personal autonomy and the liberal political structures that support it. Nussbaum claims that she (along with John Rawls) “is opposed to any view that advocates a comprehensive theory of the human good as giving a set of appropriate goals for politics.”63 This may seem like a very surprising statement given what has just been said about her vision of the government as a huge and far reaching apparatus for the distribution of external goods. But, to be clear, Nussbaum does not consider the understanding of the human good which she develops to be “comprehensive,” i.e. it does not hang upon any particular metaphysical grounding and can be the subject of an overlapping consensus. Moreover, because she is a liberal, Nussbaum limits the government’s role to providing for capabilities rather than for actual functioning in the various areas of the human good. Her general principle is that the government should not force people to behave in certain ways, to follow certain life plans, or even to refrain from certain activities that will be harmful to them. The government should rather provide people with capabilities, with the resources (material, emotional, educational, psychological, etc.) that they need in order to carry out their particular life plan. This restraint upon the proper activities of the government comes from Nussbaum’s liberal concern with freedom.

This marriage of Aristotelianism and liberalism is not, I would argue, a happy one and the tensions between these two very different philosophies manifest themselves in a variety of ways throughout her capabilities theory. Nussbaum’s theory is built upon a determinative understanding of the human good and her goal is to promote a social and political structure which will allow every person to achieve that good – should they so desire. At the same time, however, she believes that people cannot be compelled to choose the good either through social or political pressure and that in order to truly flourish they must freely choose their own life plan. The latter position seems to point in the direction of respecting people’s preferences while the former suggests that we should provide for the capabilities on the list regardless of whether or not people seem to want them. Nussbaum is inclined by the two different strands of her theory both to respect people’s preferences and to ignore them in favor of the genuine human good. Unfortunately, determining under what circumstances each of these two disparate responses is called for proves to be virtually impossible.

This tension between choice and the human good is supposed to be solved by the distinction between capabilities and functioning. The government only provides its citizens with the capability to perform in a variety of different areas, whereas, the choice to actually function is left up to the individual. However, Nussbaum’s robust Aristotelian understanding of human flourishing does not allow for such neat distinctions. She recognizes that producing adults that have full access to all the capabilities on the list will often mean requiring certain types of functioning in children because “exercising a function in childhood is frequently necessary to produce a mature adult capability.”

64 Nussbaum, Women and Human Development, 90.
Primary and secondary education, as well as health, emotional well being, and bodily integrity are all necessary in childhood in order produce adults with full capabilities. This means that Nussbaum’s theory authorizes governments to mandate children’s education and regulate their health and emotional well-being. This may not seem like a great imposition upon the freedom of parents considering that our government does in fact currently regulate these things to some extent.

But I would suggest that Nussbaum’s theory potentially authorizes a great deal more regulation in these areas than we are used to. Should parents be allowed to feed their children unhealthy meals, for example? Given that bodily health is a fundamental capability on which the others necessarily depend and that the child in question is not exercising a free choice, the capabilities approach would seem to allow for regulation in this area. The capabilities approach would seem to support such things as the current mayor of New York City’s crusade against transfats or the prosecution of parents who smoke around their children. Moreover, when it comes to children, who cannot be said in any way to be choosing their behavior, there would appear to be no limits as to what the government could potentially regulate – from mandatory physical fitness programs to state sponsored family therapy. Nussbaum suggests no reason to limit such regulation if it is determined to be necessary for the development of full adult capabilities.

When it comes to education the question of legitimate government regulation becomes even more potentially controversial. If a child’s education is to serve as the basis for full adult capabilities then the content of that education must be regulated. Consider, for example, the capability of practical reason: i.e., “being able to form a conception of the good and to engage in critical reflection about the planning of one’s
own life. This entails protection for the liberty of conscience.\textsuperscript{65} Practical reasoning is,

Nussbaum argues, central to the entire capabilities approach. Clearly, in order to be able to exercise this all-important capability one’s education would have to teach one to think independently about the good, to submit those understandings of the good presented to us by others to critical examination. That education would have to teach children how to be independent thinkers, to reject tradition and authority. If, on the other hand, one’s education taught one that a certain understanding of the human good was given as a matter of faith and should not be submitted to critical examination by human reason, if it taught obedience to traditional customs and mores, if it taught that complete freedom of thought was neither possible nor desirable, such an education would rob one of the ability to have the full capability of practical reasoning later in life. Surely, there would be no reason to permit parents to give their children such an education. Nussbaum’s capabilities approach then would seem to preclude not only refusing to educate one’s child but also giving them an education which is in conflict with the understanding of the human good which Nussbaum adheres to.\textsuperscript{66}

\textsuperscript{65} Ibid., 79.

\textsuperscript{66} Nussbaum does address directly the problem of religious education of children, however, I would argue that the compromise that she comes to cannot be supported by the principles of the capabilities approach. Nussbaum approaches this problem through a discussion of the Supreme Court case \textit{Pierce v. Society of Sisters} (1925) in which the Court declared unconstitutional a law which mandated that all children in Oregon should attend public rather than private religious schools. She accepts as correct the determination of the Court that parents have a right to direct to some extent the education of their children in their own religious traditions and that the state cannot compel public education. It is difficult to see, however, how her theory can support such a conclusion. She insists that the capabilities approach is interested only in the rights of individuals not of groups and that, therefore, “the family as such has no moral standing within the core political conception” (\textit{Women and Human Development}, 251). The family has some standing as an exercise of the “associational” liberty of its members (Ibid., 245). However, since a child does not choose to be a member of a family nor choose his/her method of education such “associational liberty” is not at issue here. Given these considerations it is hard to see why parents should have any rights at all over their children in these matters. Perhaps, not all religions would expose children to an education that undermined their future capabilities, but if the state allowed such an education to be forced upon a child it would clearly be failing in its duty to provide all citizens with a threshold level of
Thus, we can see that the dependence of adult capabilities upon functioning in a variety of areas in childhood potentially authorizes a great deal of government intervention in the child rearing practices of individual families. In addition, Nussbaum argues that even in adults some capabilities are “so crucial to development or maintenance of all the others, that we are sometimes justified in promoting functioning rather than simply capability, within limits set by an appropriate concern for liberty.”\textsuperscript{67} Nussbaum’s Aristotelian understanding of human flourishing teaches her that the development of certain of our more complex capacities depends upon certain material preconditions. One cannot engage in practical reasoning about the ultimate human good if one is starving and destitute. For this reason, Nussbaum is comfortable with requiring capabilities. The Supreme Court’s settlement in \textit{Pierce} clearly reflects the view that, although the state has a right to see that the education of its children does not undermine their ability to be effective citizens in the future, the religious education at issue in this case was not a danger to that goal. Obviously, Nussbaum believes something similar. However, the requirements of Nussbaum’s capabilities list are much more extensive than the basic requirements of citizenship as envisioned by the Supreme Court. Whether she acknowledges it or not, her robust vision of the requirements of human flourishing and hence the extensive nature of government’s duties towards its citizens do not leave open to her the possibility of such compromises. Nussbaum also endorses (albeit with some reservations) the Supreme Court’s decision in \textit{Wisconsin v. Yoder} to allow Amish parents to withdraw their children from school after age fourteen. She does so, however, only because of her practical determination that the last two years of high school are not a “crucial determinant of capability” (Ibid., 233) and because the Amish are a small religious minority in danger of disappearing all together (Ibid., 251). Her reservations with regard to this case are most revealing. She considers the possibility that because the Amish train their children in traditional gender roles their educational system should not be permitted by the state. Whereas in her discussion of \textit{Pierce} she only considered as relevant the ability of religious schools to teach basic civics, here she widens her concerns to include the issue of gender equality and the importance of encouraging non-gendered social roles. The concern merely with including basic civics in religious schools reflects the compromise which traditional liberalism (of the John Locke variety) makes with religion. The authority of the state over education is asserted but only in a minimally intrusive way. Nussbaum’s concern with the traditional gender roles supported by the Amish is more in keeping, I would argue, with the more robust requirements of her capabilities theory. Her ultimate decision to endorse the Supreme Court’s ruling in this case is by no means the only possible conclusion based upon her theory.

\textsuperscript{67} Nussbaum, \textit{Women and Human Development}, 91.
functioning in certain areas especially with regard to health and safety issues. The problem: is where do we draw the line out of “an appropriate concern for liberty”?

In the area of health and safety, there does not seem to be a principle to distinguish what sorts of government regulations are allowed and which are not. For example, she endorses laws which criminalize drug use, but not smoking or alcohol consumption. She is reluctant to endorse a ban on assisted suicide, but she does believe that people should not be allowed to buy “tainted products or dangerous medicines, even with full knowledge.” Nussbaum claims as a principle the notion that the government should not permit people to give up their capabilities permanently. Drug use is therefore outlawed because of its permanent detrimental effect on our mental capabilities. The same rationale is used to justify outlawing female genital mutilation among consenting adults, the argument being that the government should not allow women to permanently sacrifice their capability for sexual pleasure. However, given this rationale it is difficult to see why the government should allow women (or men) to permanently give up their reproductive capability through sterilization. Nor does it explain her apparent willingness to allow people to permanently sacrifice all their capabilities by ending their own lives. If bodily health and integrity are so important to the achievement of higher level capabilities then why should we allow even adults to engage in behavior which is so clearly destructive of those ends?

An “appropriate concern for liberty” seems to stop Nussbaum short of regulating all sorts of behavior in adults which she considers to be unhealthy and destructive of

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68 Ibid., 95.

69 For Nussbaum’s specific arguments concerning these policy areas see Women and Human Development, 94-5.
human flourishing. Sociability and practical reasoning, for example, are said to be the most important of the capabilities and “central to the entire [capabilities] project” because “they suffuse all the other capabilities, making them fully human.” Nussbaum speaks disparagingly of those who would resign their practical reasoning by joining an “authoritarian society” such as “a religious cult or the military” and allow that society to direct their major life decisions. She quite correctly sees that such people will not be able to behave as responsible democratic citizens under her model. Yet, she is unwilling to consider outlawing or regulating such societies. Moreover, functioning in the areas of sociability is thought to be sufficiently encouraged by requiring people to pay their taxes and to obey the law.

This division between material goods and what might be called spiritual goods (including practical reasoning and sociability) may reflect a public policy compromise which American society has come to regard as the appropriate scope of government power. (That is, the government may have a responsibility to make sure that you don’t starve, but it doesn’t have a responsibility to make sure that you are happy and well-adjusted). However, Nussbaum’s theory does not seem to support such a distinction. Her capabilities list moves well beyond the realm of material goods and she insists that all the capabilities “are of central importance and all are distinct in quality.” When first laying out the various capabilities on the list she insists that human flourishing requires a threshold level in all of the capabilities areas and that trade-offs are not permitted. Yet,

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70 Ibid., 92.
71 Ibid., 93.
72 Ibid., 81.
her insistence that capabilities in some areas require functioning in other areas seems to encourage such trade-offs. She seems to be prioritizing bodily health over mental and emotional well-being, by allowing citizens the freedom to resign one but not the other. In the same way that being able to engage in practical reasoning is dependent upon having food and shelter, having healthy emotional attachments would seem to depend upon having self-respect and esteem from those around you. Why then must we allow people “to abase themselves or to choose relationships involving humiliation in their personal lives”?

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Nussbaum is held back from requiring functioning in all areas by a liberal concern for individual freedom. She believes that a truly flourishing life is one that is freely chosen and she does not want to have the government forcing people to be happy. The problem is that Nussbaum’s theory is caught between two different understandings of freedom. In classical liberalism freedom is the absence of physical restraint – citizens have the freedom to do things when the government does not regulate them, and when the government does pass restrictions the people’s freedom is diminished. It is out of a concern for this type of freedom that Nussbaum does not want to require that adults function in all the different capability areas. She wants to leave people free not to exercise their capabilities and even to stifle or resign those capabilities should they so desire. Think of the example referenced above: even though Nussbaum firmly believes that a life without self-respect is not a truly human life she still maintains that “we do not altogether want to close off voluntary choices citizens may make to abase themselves or to choose relationships involving humiliation in their personal lives, however unfortunate

73 Ibid., 91.
we may think those choices.”\textsuperscript{74} She maintains this position because she believes that actions which are compelled or coerced do not have the same value as actions which are chosen. When the government compels us to act in a certain way, even for our own good, it is not treating us as dignified beings. “Play is not play if it is enforced; love is not love if it is commanded.”\textsuperscript{75}

The difficulty is that at the same time she is continually rejecting this traditional understanding of freedom as insufficient. First of all, as we have seen, at the root of her entire project is an Aristotelian understanding of human nature. This understanding of human nature, in which animality and rationality are fully integrated, leads her to a deeper understanding of how human beings make choices. Our material resources, our education, our upbringing, our personal relationships, all of these things shape the choices that we make. In other words, physical force is not the only way to compel a decision and freedom from physical restraint does not really constitute genuine freedom. Think again of the example of a humiliating relationship between consenting adults. Even though the government has not regulated such a relationship and both parties have expressed their consent, is a decision to engage in such a relationship truly free? What if a woman chooses to enter into such a relationship because she was emotionally or physically abused as a child? The woman’s relationship preferences could have adapted to fit the environment she was used to as a child.\textsuperscript{76} Is the choice a free one then? How

\textsuperscript{74} Ibid.

\textsuperscript{75} Ibid., 88.

\textsuperscript{76} Nussbaum recognizes the phenomenon of “adaptive preferences” in which people alter their desires to fit the environment in which they find themselves. Customs, laws, and social mores can all have an effect on people’s expressed desires. People who are traditionally oppressed can come to tolerate and
are we to tell? We cannot simply take at face value what people say that they want. Indeed, the only way in which one can safely say that a choice is really free is by assessing the content of that choice. In other words, Nussbaum’s own position, unlike that of traditional liberals, must lead to the conclusion that “there is only freedom to do the good.”

We can see here, based Nussbaum’s own examples, that the distinction between capabilities and functioning is very difficult to maintain in practice. The way in which some capabilities are dependent upon the development of others and the way in which adult capabilities are dependent upon childhood functioning mandates that, in Nussbaum’s theory, the government must concern itself with some level of functioning. But when does the right of people to freely choose their own life plans, that is, to act autonomously, trump the government’s duty to provide for a threshold level of capabilities for everyone? There is no obvious way to make a principled distinction in these sorts of cases. When we do, in practice, draw these sorts of lines it is usually based upon a weighing up of various interests and a prioritization of various rights and goods. We allow parents to educate their children in religious schools but we do not allow them to put their child’s life in danger by denying the child medical care based on religious beliefs. We do this because we clearly prioritize life and health over the capability of “practical reason” or “emotional wellbeing.” We regulate smoking in public places because the health risk of second-hand smoke, but we allow people to destroy their own
even to like their oppression, but this does not in any way mean that they have consented to it or that it is morally justified (Women and Human Development, 138-143).
health by smoking in private. These sorts of compromises and prioritizations are simply not permissible under Nussbaum’s theory.

Another obvious problem with Nussbaum’s capabilities approach is the extent to which it poses a danger of homogenizing values and culture. The whole virtue of a liberal political theory is supposed to be that people from all different cultures and ways of life, people who possess a variety of different comprehensive doctrines, can all endorse its tenets without giving up their diverse beliefs and practices. Whether or not this is genuinely true of a proceduralist theory like Rawls is not a question I will attempt to answer here, but it cannot, I think, be true of Nussbaum’s theory. The capabilities on her list embody her conception of the good life for human beings, and by realizing the capabilities in the lives of all human beings and building them into the very structure of society you cannot help but alter or destroy competing conceptions of the good. In order to genuinely possess the capabilities that Nussbaum speaks of a person must be educated to believe in the value of the principles upon which the capabilities approach rests. You cannot then say to a person: you are perfectly free to now go out and live a traditional life which in every way contradicts these principles. First of all, in an attempt to live such a life one would almost certainly run up against the long arm of the law at some point. But more importantly than that the mores of society, the laws which it enforces and the education which it provides all will all act to affect the preferences of its people. Nussbaum’s theory will be in direct conflict with and make it more difficult to maintain any comprehensive conceptions of the good which contradict her own emphasis on equality and autonomy. The logic of adaptive preferences cuts both ways.
The reason why Nussbaum fails to appreciate the extent of this problem is that her theory is, quite self-consciously, individualistic. One of the primary principles underlying her approach is the Kantian idea that every human being should be treated as an end in themselves and never as simply a mean to some greater good.\textsuperscript{77} This individualistic stance causes her to strongly reject any notion of group rights. While there is much to be said for this type of perspective, especially as opposed to the dangers of some forms of utilitarianism, it leads her to ignore the way in which the health of groups and associations affects the ability of individuals to choose certain ways of life. On one level, as we have seen, Nussbaum is very attuned to the way in which individual choices are shaped by group dynamics. She sees a myriad of instances where citizens (especially women and minorities) adapt their preferences in response to what their social or religious group believes is right or valuable. But she seems to only see this group dynamic as limiting and oppressive rather than enabling or empowering. She understands that human beings are social animals, but sees this only in terms of the necessity of individual relationships. Human sociability is more than this, however. All individual life plans require some sort of group support, not just in terms of material resources but in terms of a value system. We have to believe that the things we value have some sort of ultimate value and such a judgment is almost impossible to sustain in a vacuum.

The traditional ways of life which Nussbaum speaks of, those which she wants to leave all human beings free to choose (after a proper education and upbringing), require shared values as well as particular institutional structures to sustain them. It is virtually

\textsuperscript{77} Nussbaum, \textit{Frontiers of Justice}, 70-1.
impossible for a person to live his or her life according to a completely idiosyncratic system of values. Whatever value system we profess will be affected by the values of the culture in which we live and will be more or less difficult to maintain depending on how closely it mirrors what the values of society at large. All of this is part of what it means to say that human beings are naturally social. To the extent that Nussbaum’s theory requires the replacement of a variety of traditional value systems with her own notion of human flourishing it entails limiting the ability of individuals to choose traditional life plans. You cannot take away the institutional supports for a traditional way of life, reduce it to the status of one private association or group among many, and claim that people are just as free to choose that way of life as they were before.

Nussbaum’s discussion of religious liberty in *Women and Human Development* can serve as a useful illustration of this problem. Nussbaum’s commitment to providing all citizens with the capabilities on her list as well as her understanding of adaptive or malformed preferences dictate that all activities, including religiously motivated ones, are subject to certain moral constraints. In other words, people cannot be allowed to deprive others (or themselves) of important capabilities in the name of religious liberty.\(^7\) They are entitled, however, to certain exemptions from general regulatory laws on religious

\(^7\) Nussbaum compares her approach to religious liberty to the position taken by Congress in the Religious Freedom Restoration Act of 1993 (RFRA). In this act, the government is forbidden to ‘substantially burden’ a citizen’s free exercise of religion unless the law in question furthers a ‘compelling state interest’ and uses the ‘least restrictive means’ possible in order to achieve that interest. She declares that her approach uses the same principle except that the notion of ‘compelling state interest’ is fleshed out by reference to the capabilities list. “Protection of the central capabilities of citizens should always be understood to ground a compelling state interest” (*Women and Human Development*, 202). The ideas of ‘compelling state interest’ and ‘least restrictive means’ are concepts that the US Supreme Court uses when attempting to balance individual liberties against the state’s regulatory power. The government is required to show that it meets these two criteria when restricting a ‘fundamental right’ of its citizens. However, the Supreme Court’s list of ‘fundamental rights’ is much more restricted than Nussbaum’s capabilities list and her approach therefore opens up the possibility of a deal more government restriction on religion than is contemplated under RFRA.
grounds. Native Americans should be allowed to use peyote in religious ceremonies and Hindus should be allowed to smoke marijuana during the celebration of Holi despite the general principle that the government is allowed to outlaw certain types of drug use.79

She supports exemptions for the wearing of yarmulkes in the military, religious jewelry in prisons, and head scarves in public schools despite the government’s general ability to regulate the dress of its citizens in these situations. The space which Nussbaum allows for religious freedom seems to grow larger when she endorses the Indian system of religious personal law by which members of India’s different religions are governed by different law codes. But this exception turns out not to be very meaningful when its contours are examined carefully: the criminal code is the same for all citizens regardless of religion, religious labels must be able to be picked up and discarded at will, and differential treatment of the sexes cannot be permitted.80

Nussbaum’s response to the problem of religious liberty is to allow freedom in relatively minor individual choices that affect only oneself, but when any of the capabilities are directly threatened, the law must protect them.81 The state has no


80 Nussbaum argues that the public establishment of religion by the government can sometimes be tolerated if, given the specific historical and cultural context, establishment acts so as to preserve individual religious freedom rather than diminishing it. In India, for example, she contends that allowing partial establishment of religion through the existence of different codes of “personal law” for members of different religions is the best way to preserve everyone’s individual religious freedom. She insists, however, that the tenets of these personal law codes cannot violate the capabilities. Sex equality, for example, must be enforced by the government no matter what the provisions of any particular religion have to say on that subject (Women and Human Development, 217). Again, Nussbaum allows for latitude in small matters of personal behavior and she carves out a space for people to perform their religious rituals (for the most part) in peace. But when it comes to worldview, to an understanding of the good, to an understanding of what individuals are entitled to, it is clear that there is no room for positions which contradict the capabilities approach.

81 Her position is thus in some ways more liberal than current jurisprudential norms on this subject and in other important ways more restrictive. She would allow dispensations for the wearing of religious attire in the military (which the US does not currently allow) and in primary and secondary schools (which
obligation to support the health or maintenance of religious institutions, only the religious choices of individuals and only in some cases. But this approach ignores the way in which religious institutions and laws enable the religious choices of individuals.

According to Nussbaum all people must have the right to obtain a divorce and women must be entitled to maintenance payments after divorce, religious opinions on the subject of marriage and divorce notwithstanding. “Divorce rights for women clearly do not impose a substantial burden [on religious liberty], since free exercise has never been interpreted to give one person the right to impose his religious will on another.”82 To allow all people to divorce is not a substantial burden on free exercise of religion because you are still free not to divorce (if your religion so requires). But for the law (and thus by inference the political culture as a whole) to allow divorce is not a neutral position. Those who believe that divorce is immoral no longer have the support of the state, the law or the political culture on their side. In fact, quite the opposite is true. The political culture views the denial of the right to divorce as a form of oppression. Those who subscribe to this particular religious view are thus deprived of an essential part of what is necessary for them to continue in that religious view.

Nussbaum’s own view of human flourishing compels this conclusion. Our ability to live according to any particular comprehensive conception of the good depends upon

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82 Nussbaum, Women and Human Development, 220 (emphasis added).
more than simply the government refusing to regulate our beliefs. It depends upon education, material resources, cultural and social support. If society condemns a practice this can reduce our capability to engage in that practice as much as if the government were to forbid it. Lack of respect from fellow citizens, lack of institutional support structures or the support of like minded individuals, all of these things can reduce our effective ability to adhere to a particular belief system or organize our lives according to certain principles. These are exactly the considerations which led her to prefer the capabilities approach over and above traditional human rights approaches or Rawls’ primary goods. The problem is that all beliefs, all comprehensive conceptions of the good, cannot be supported in all these myriad ways by society. Adherence to the capabilities list, to the substantive understanding of the good enshrined in it, will disadvantage those whose principles may contradict it. I am not saying that this is necessarily a bad thing; I am simply saying that it is unavoidable. And, moreover, as a consequence of this the capabilities of some people to live as they would choose will be diminished.

A society structured in the way in which Nussbaum recommends will habituate people to prefer those things which she thinks that they should prefer. It cannot help but do so. Nussbaum believes that the capabilities she identifies are genuine aspects of the human good and so habituating people to prefer them is perfectly acceptable. If she is correct about the first point, then she is probably also correct about the second. But she cannot at the same time claim that her capabilities approach leaves people completely free to choose alternative or traditional ways of life, ways of life which do not value the capabilities as she understands them. A person’s ability to make such choices will be
appreciably diminished in a society that functions according to Nussbaum’s rules. If she is correct about her understanding of the good than we need not mourn the passing of such unhealthy ways of life, but it needs more than a moral intuition, however widespread, to support such a conclusion.

1.4 Nation-State or World State: The Capabilities Approach on Institutions

Up until now the state has played somewhat of a background role in our discussion of Nussbaum’s capabilities theory. We have spoken of the institutions of government as the distributors and guarantors of a threshold level of capabilities for all people, but we have not discussed what Nussbaum believes the proper ordering or structure of those institutions should be. Like the term X in an algebraic equation, we have worked with the concept of the state without having discovered its specific value. This ordering of the discussion has been necessary for the simple fact that, according to Nussbaum’s theory, determination of the capabilities must precede the organization of state institutions because the state institutions exist for the sole purpose of guaranteeing capabilities to citizens. All people are entitled, as a matter of justice, to a threshold level of capabilities and the responsibility for providing those capabilities falls, as we have said, primarily upon institutions. Moreover, the organization of institutions should be structured in whatever way is most efficient for the provision of capabilities. This what Nussbaum means when she says that her approach is “outcome-oriented” – the outcome
is given by the capabilities on the list and institutions and procedures are selected based upon how well they are able to achieve the desired outcome.\textsuperscript{83}

It will be as well to pause at the beginning of our discussion of the nation-state to consider why it is that Nussbaum assigns the duty of providing a threshold level of capabilities to institutions, particularly governmental institutions rather than to individuals. Nussbaum offers a number of reasons in support of this particular distribution of duties all centered around the fact that institutions have a number of abilities which individuals by themselves simply do not possess. Institutions can organize complicated distributions of goods, conquer collective action problems, and, in the case of governments, compel compliance with their decrees. One of the primary reasons she relies upon institutions as the chief purveyors of capabilities is in order to preempt a version of a critique that is often leveled at classical forms of utilitarianism. If I, as an individual, were to attempt to provide for the capabilities of everyone (or even of only those in my immediate orbit) my life would be consumed by this responsibility and I would not have any time to pursue my own activities.\textsuperscript{84} In order to avoid letting the capabilities devour people’s lives Nussbaum transfers responsibility to institutions.

It is important to note what all of these arguments in favor institutions have in common. The essential idea is that the duty to provide for the capabilities of all people

\textsuperscript{83} “The capabilities approach is an outcome-oriented approach that supplies a partial account of basic social justice. In other words, it says that a world in which people have all the capabilities on the list is a minimally just and decent world. Domestically, it holds that one central purpose of social cooperation is to establish principles and institutions that guarantee that all human beings have the capabilities on the list or can effectively claim them if they do not. It, thus, has a close relationship to institutional and constitutional design” (Nussbaum, \textit{Frontiers of Justice}, 274).

\textsuperscript{84} The critique is originally applied to classical utilitarianism. If the responsibility for maximizing the general welfare were to fall on individuals then we would all just spend our time endlessly calculating the maximum utility for every decision that we had to make. In order to avoid this problem Nussbaum and the utilitarians make a similar move of transferring responsibility to institutions.
everywhere, while it genuinely does belong to each of us individually, is completely impossible for any individual to fulfill. Indeed, as we have seen, even with institutional structures in place the road to full capabilities provision will not be an easy one and may not even be fully possible. Without institutions the quest to do only what is required of us by justice would completely consume our lives. The vastness of the capabilities undertaking does not appear to strike Nussbaum as being in any way problematic, but we might suggest one or two areas of concern. First of all, the off-loading of individual responsibility onto government might serve to undermine her ultimate goal of providing all people with capabilities. Such a move would seem to encourage passivity among ordinary citizens and a technocracy lead by specialized government bureaucrats. Ordinary citizens may be required to give up a great deal (in terms of taxes) but they will not be required to actively do much anything to alleviate the lot of their fellow beings. They will be encouraged to look upon all suffering as the problem of some institution or other rather than their own. In short, I am suggesting that giving such a prominent place to institutions may have the opposite effect to the one she intends – it may narrow people’s horizon of concern rather than broaden it.

However, such a move is entirely essential to the success of her theory. Without a provision which assigns primary responsibility for the provision of capabilities to institutions rather than to individuals Nussbaum’s theory would collapse under its own weight, and it is this fact, in itself, which I would also suggest is problematic. Is it really legitimate to create a theory of justice that is inextricably wedded to complex bureaucratic mechanisms which are entirely dependent upon of our present level of technological achievement? First of all, one might ask, what are the duties of the
individual in a world without governmental institutions? Consider a post-apocalyptic world of the future in which all governmental institutions have been effectively destroyed by a nuclear holocaust. Does the duty to see that all people have a threshold level of capabilities devolve upon all the surviving people individually? If so, how is one to solve the massive collective action problems involved in such a scenario? Are we to conclude that wherever sufficient governmental institutions do not exist it is the duty of people to create them?

We do not have to take such an extreme example, however, to see the limitations of such an approach. Consider instead the world of the not-too-distant past when lack of technology made the organization of such massive governmental institutions as we are now familiar with impossible. Governments did exist to solve certain collective action problems, primarily in the area of security, but they did not and could not provide their citizens with the capability to have healthy emotional relationships or to have “the social bases of self-respect and non-humiliation” or to live in harmony with “the world of nature” or any of a myriad of other capabilities that Nussbaum sees as essential parts of a just society.85 Or, alternatively, consider the situation much more familiar to us today in which governmental institutions are simply incapable of acting to fulfill everyone’s needs because of the inherent inefficiencies of massive bureaucratic systems. Even with the best will in the world there are people who will slip through the cracks and their capabilities will not be provided for by the government.

Because of the massive scope of the duties associated with Nussbaum’s capabilities theory, institutions are necessary in order to becolossal distributors of various

85 For a complete list of the capabilities see Nussbaum, Women and Human Development, 78-80.
burdens and benefits among people. The only principle that should govern their structure is the principle of efficiency of distribution. Given this orientation towards outcomes as well as her rejection of patriotism it is rather surprising that Nussbaum does not advocate the formation of a world state in order to implement her universal capabilities theory.

Nussbaum has declared nationality to be a morally irrelevant characteristic, i.e. with regard to the determination of who is entitled to what and from whom, nationality should not be taken into account. All human beings have equal dignity as human beings regardless of where they were born. Moreover, the signs, symbols, and sentiments of patriotism encourage people to regard the distinction between nations as morally relevant and therefore to act in violation of the requirements of justice. All of these are familiar parts of Nussbaum’s rejection of patriotism. It would seem, therefore, that she should advocate doing away with these morally irrelevant boundaries that divide us from each other and encourage us to ignore the needs of others. It would seem that the best way to ensure that a child born in the Sudan and one born in the United States had equal opportunities to live a life worthy of human dignity would be to do away with the United States and the Sudan and make both children into citizens of the world. In this way, economic and educational opportunities could be leveled out across the world without having to rely upon the disinterested good will of richer countries or such notoriously ineffective international institutions as the United Nations.

Nussbaum, however, firmly rejects the notion of creating a world state and insists that the continued existence of individual nation-states is an integral part of her capabilities approach. Her capabilities approach, she suggests, should be used as a template for various individual nations to reform their internal constitutional structures.
It can also be used as the basis for designing international agreements, agencies, and treaties among nations as well as the construction of international law. When it comes to the implementation of the requirements of the capabilities theory, however, “a fundamental role remains for the nation-state” (WHD, 103). Individual nation-states, as they currently exist, will be responsible for providing the capabilities of their own citizens. The domestic institutions of particular nation state should have as their goal providing a threshold level of capabilities to citizens and should be arranged in whatever way is best suited to that provision – taking into account the particular history and tradition of that particular nation. She suggests that the capabilities approach allows for the “multiple realizability” of capabilities – meaning that they “may be concretely realized in a variety of different ways, in accordance with individual tastes, local circumstances and traditions.” 86 Although multiple ways of realizing the capabilities are acceptable, Nussbaum does believe that “some general principles concerning institutions and their relationships can be defended as crucial to the promotion of human capabilities.” 87 These general principles include many that are familiar to us as Americans: separation of powers, judicial review, and federalism, as well as the creation of independent administrative agencies, government accountability mechanisms, and a system of law that errs on the side of protecting citizen capabilities.

86 Nussbaum, *Women and Human Development*, 105. As an example of how different institutional designs can fulfill the capabilities requirements Nussbaum points to the different legal approaches to free speech developed in the US and Germany. In Germany, denying the Holocaust and other forms of anti-Semitic speech are illegal, whereas in the United States regulation of the content of political speech by the government is considered to be highly constitutionally suspect (Nussbaum, *Frontiers of Justice*, 79). These two approaches have grown out of the two country’s different histories and traditions, and both are considered acceptable methods of guaranteeing the capability of free speech. Another example might be the difference between the common law tradition associated with Great Britain and its former colonies versus the Roman law tradition used in France.

87 Nussbaum, *Frontiers of Justice*, 311.
Although she rejects the idea of a world state, Nussbaum does believe that some sort of international institutions are necessary in order to promote capabilities. These international institutions, however, should be “thin and decentralized” and will not possess and coercive apparatus to enforce their decrees. The institutions that Nussbaum envisions are pretty much the same as the ones that we already possess – the United Nations, the World Bank, the International Monetary Fund, as well as human rights organizations such as the Red Cross – with the addition of a few new ones like an international criminal court. All of these organizations will be, as they are now, constituted by and subject to the voluntary agreements of various nation states.

Nussbaum outlines “Ten Principles for Global Structure” which should serve as general guidelines for individual states when considering their international responsibilities. These include the idea that national sovereignty should be respected but also that richer nations should give a certain portion of their GDP to poor nations (Nussbaum recommends 2%). These principles can serve as guiding points for any nation wishing to deal justly with its neighbors, but compliance with them is, for the most part, voluntary.

When an individual nation fails to follow through on its responsibilities, either to its own citizens or in the international arena, the responses that are open to other nations are extremely limited. The international community can condemn an individual state for

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88 Ibid., 314.

89 Ten Principles of Global Structure: (1) Nations always have a responsibility to reform their internal structure to promote capabilities; (2) national sovereignty should be respected within the constraints of promoting capabilities; (3) global redistribution of wealth; (4) corporations have responsibility to promote capabilities wherever they operate; (5) global economic policies must be fair to poorer nations; (6) “We should cultivate a thin, decentralized, and yet forceful global public sphere”; (7) we should focus our concern on the least advantaged among us no matter where in the world they reside; (8) Care for the ill, elderly, children, and the disabled should be a constant focus of the world community; (9) family life is important but not sacrosanct; (10) we should support education as a key to promoting capabilities (Nussbaum, *Frontiers of Justice*, 315-22).
failing to do its duty and compliance can be encouraged through reward programs. In extreme cases of severe oppression or genocide, Nussbaum suggests that economic sanctions or even military intervention might be justified. She indicates that her theory would have justified a military intervention in South Africa under apartheid.\textsuperscript{90} However, for the most part there is a presumption in favor of respecting national sovereignty as long as a nation is “above a certain threshold in terms of democratic legitimacy.”\textsuperscript{91} Nussbaum does not say, however, what the threshold of “democratic legitimacy” is below which intervention is morally justified. It presumably would include countries where there is no discernable democratic process or where the process does not present genuine choices to the voters – such as Cuba or China or North Korea. Is military intervention justified to force those nations to respect the rights of their citizens? Is such intervention morally required? On the other hand, why isn’t intervention of some sort allowed whenever a nation fails to live up to its responsibility to provide a threshold level of capabilities to all of its citizens? Why should a society that is not even minimally just be left in peace?

Nussbaum’s discussion of the institutional structures required by her theory seems to contain a presumption in favor of the status quo ante, i.e. a presumption in favor of respecting the sovereignty of individual nations as they currently exist. Nussbaum does offer various practical reasons in support of her position on this subject. She contends that the creation of a world state would be impracticable and dangerous. The practical problems associated with one state ruling over such a vast area and so many different

\textsuperscript{90} Nussbaum, \textit{Frontiers of Justice}, 259.

\textsuperscript{91} Ibid., 258.
people would make it difficult for that state to be sufficiently accountable to its citizens. Moreover, a world state would require a certain level of “cultural and linguistic homogeneity” which Nussbaum is uncomfortable with promoting. As we have seen she wants people to be able to keep their various unique cultural practices so long as these do not interfere with the promotion of capabilities. We should not rob people of this sort of diversity without “very strong reasons” and since the creation of a world state, under present conditions, would not adequately provide for capabilities such steps do not have to be considered. Nussbaum does indicate, however, that these practical limitations only exist at the present time and might not be applicable at some time in the future.92

Nussbaum does, however, offer something beyond merely practical reasons for her hesitation to endorse the world state and her presumption in favor of national sovereignty. National sovereignty ought to be respected, she argues, because “by forming sovereign states and giving themselves laws, human beings assert their moral autonomy.”93 As we have seen autonomy is essential to Nussbaum’s understanding of human dignity and a life that is worthy of that dignity. The acts of forming a nation, self-legislating, and participating in politics, are expressions of human autonomy and as such should be respected. The implication is that the nation-states which exist today were formed by autonomous activities and when people today participate in politics by electing

92 “Even a highly moralized globalism needs nation states at its core, because transnational structures (at least the ones we know about so far) are insufficiently accountable to citizens and insufficiently representative of them” (Nussbaum, Women and Human Development, 105, emphasis added). “Unlike domestic basic structures, a world state would be very unlikely to have a decent level of accountability to its citizens. It is just too vast an undertaking, and differences of culture and language make the requisite communication too difficult, at least at present” (Frontiers of Justice, 313, emphasis added).

93 Nussbaum, Frontiers of Justice, 256.
their governments they are expressing their autonomy and performing one of the functions that are necessary to flourishing life. To use force to override those actions by interfering in the internal affairs of a nation or forcing the people to break down their national boundaries and to form a world state would be to ignore the autonomous actions of individuals – to treat them as less than human by means of coercion. Nussbaum also maintains that “one very important part of this autonomy [is] the right to do things differently from one’s neighbors.”94 To force people into a homogenous world state in which they must shed their diverse practices is also a violation of their autonomy. She concludes: “To protect national sovereignty in a world of pluralism is an important part of protecting human freedom. In that sense, any world state is ipso facto tyrannical.”95

This is a very strongly worded argument Nussbaum repeats at several points in both Women and Human Development and Frontiers of Justice in order to justify what might otherwise seem like an inconsistency in her capabilities approach. I would suggest, however, that the problem with this argument is the same as the problem with the domestic policy recommendations which we have just discussed in the previous section, that is, it contains a tension between two different understandings of freedom. Nussbaum’s basic point is that in order to have its sovereignty respected a nation does not have to be fully just (i.e. provide all of its citizens with a threshold level of capabilities) it simply has to be above a certain level of “democratic legitimacy.” She fully concedes that a nation which does not have any kind of a democratic system or which does not allow a substantial portion of its population to participate in politics (e.g. South Africa) does not

94 Ibid., 314.
95 Ibid.
have to be respected or let alone by other nations because its government is not a meaningful expression of the autonomy of its people. But by the same token a nation which does permit all (or most) or its citizens to participate but does not provide them with full capabilities (i.e. sufficient education, freedom from abject poverty, freedom of expression, the social basis for self-respect, etc., etc.) is not really providing its citizens with an opportunity for genuine choice. Presumably in such a situation the policies which the government has adopted, those policies which fail to provide for a threshold level of capabilities, are the result of the expressed preferences of its citizens. Again we must ask, why respect such malformed preferences? Why respect the decrees of a government which provides its citizens only with a “simulacrum of choice”?

In addition, even if we were to accept as valid Nussbaum’s practical arguments that a world state would be too large to be sufficiently accountable to its citizens there does not seem to be any reason why we should accept as fixed the current national boundaries. As Nussbaum has been at pains to point out, current divisions between states are not usually the result of conscious decisions supported by determinate moral reasons they are, rather, the result of a long succession of historical accidents – often including wars of conquest and colonial practices. Why should we in the present be bound by the accidents of history? To the extent that they reflect any kind of choice at all, they reflect the choices of people long dead and buried. A reorganization of currently existing borders with an eye to geographical and cultural continuity as well as economic viability would seem to be a relatively efficient way of providing for capabilities. By this method we would have something smaller and more manageable to deal with than a world state, but we could also unite rich and poor areas into common units rather than relying upon
the cumbersome and not very reliable method of voluntary economic redistribution across existing borders.

Perhaps it is difficult to imagine the various nations of the world consenting to such reorganization or to imagine one nation (or group of people) possessing the requisite force necessary to compel it. But is it really that much more difficult to imagine than rich nations consenting to a voluntary redistribution of their income or to allow their citizens to be tried in an international criminal court or corporations voluntarily committing themselves to provide for the capabilities of all of their workers? When it came to the construction of the capabilities list itself the accusation of utopianism did not seem to deter Nussbaum. The capabilities list, after all, presents a portrait of what justice should look like even if such a state of affairs is very difficult to achieve.

Thus, it seems that people could express their autonomy by means of their consent to and participation in a world state or several large conglomerate states just as well as they now do in the context of individual nation-states. Such reorganization may be unlikely in our current state but if education in world citizenship proceeds apace, as Nussbaum recommends, there does not seem to be any reason why consent to such a state of affairs should not be forth-coming. However, there is one final consideration which seems to hold Nussbaum back from the endorsement of a world state and/or an interventionist foreign policy – the requirement of diversity. People have a right, Nussbaum claims, to do things differently from the way their neighbors do them, to organize their institutions differently according to their own culture and traditions. Tolerance of a diversity of political practices is part of a respect for the autonomy of human beings. But exactly what sort of tolerance is required or permitted by Nussbaum’s
theory? As we have seen in our discussion of domestic policy, not all preferences or practices need to be tolerated. We do not and should not tolerate practices that harm the provision of capabilities to all people. Hence diversity of religious practices notwithstanding the law must permit divorce rights, voting rights, and property rights equally to both men and women. Respect for diversity in the domestic sphere has been interpreted to mean that different cultural and religious practices are permitted provided that they do not harm capabilities. Why should the policy be any different when it comes to the international sphere?

Nussbaum herself uses this exact argument to criticize Rawls’s theory of international organization which he sets forth in *The Law of Peoples*. Rawls believes that what he calls “decent hierarchical societies” should be allowed to enter into the “society of peoples” even though they are illiberal and do not allow all of their citizens to participate in the governing process. Rawls argues that this position is analogous to his position regarding the toleration of illiberal viewpoints within a particular society. Nussbaum quite correctly points out that this analogy is a false one. Although freedom of speech requires that we allow people to express their illiberal viewpoints in the public square, “unreasonable comprehensive doctrines will not be respected in society’s constitutional structure, in the sense that principles that conflict with these doctrines will be entrenched in the nation’s constitution.”96 In other words, we may allow these illiberal viewpoints to be expressed but we do not allow them to be imposed upon other people by creating institutions or laws in accord with them. Moreover, these illiberal viewpoints are allowed to flourish only “against the background of exit options” meaning that people

96 Ibid., 252.
must be able to change their minds and opt out of a particular religion or cultural group. To allow nations with illiberal political structures to flourish without interference of any kind and to participate in international agreements, however, cannot be permitted by the same principle. To do so does not simply entail the toleration of idiosyncratic opinions or harmless ritual observances, but rather involves the active oppression of people.

Nussbaum’s own position does not call for the toleration of societies that do not allow their citizens to participate in government; she, unlike Rawls, thinks that we should place pressure on such nations, in whatever way is practicably possible, to influence them to change their ways. But it seems that as long as citizens are permitted *de jure* to participate in politics then whatever further reforms are required in order to make a society minimally just must be left to that society’s internal political process. The problem is that Nussbaum, by the principles of her own theory, has to be concerned about more than just voting rights. The overarching premise of the capabilities approach is that oppression can occur by other means than legal ones. A desire for diversity may lead us to tolerate a variety of opinions about the good or a variety of harmless cultural practices but it does not require us to tolerate oppressive behavior that harms people’s capabilities. Nussbaum has made this clear on a domestic level especially in her discussion of religion. It is unclear why, when it comes to international relations, she should hold herself back from these same conclusions.

Thus, Nussbaum, despite her cosmopolitan outlook and her universalistic capabilities theory, does not endorse the creation of a world state as an appropriate

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97 Ibid., 253. Rawls may be allowed to let these illiberal viewpoints flourish but it is by no means clear that Nussbaum can.
method to distribute justice to all citizen of the world. Instead, she insists, rather
incongruously, on respecting the national sovereignty of individual nation-states in most
cases. I have suggested that the all-important moral reasons which she offers in support
of this position, i.e. a respect for autonomy and diversity, are not borne out by the other
requirements of her theory. The practical reasons that the offers are certainly much more
compelling, but they seem insufficient to justify her strong support of national
sovereignty especially if they are, as she seems to indicate, only temporary.

I would further suggest that in order to justify, in a principled manner, deference
towards the existing order of the world and the current divisions between nation-states
one has to see the state itself as something more than what the capabilities theory permits
it to be. The capabilities approach, as we have seen, is entirely focused on the individual
rather than the group. When we speak of capabilities they are always the capabilities of
an individual and groups have no standing under the theory except in so far as they are an
expression of the associational liberty of their members. Just as the family has no moral
standing in capabilities approach, neither does the state. And, just as the existence or
good of the family should not be protected at the expense of the capabilities of its
members neither should the capabilities of individual citizens be sacrificed out of a
respect for national sovereignty. The state is simply a massive distribution apparatus to
be tinkered with by technicians. In our imperfect world the apparatus may never be able
to achieve complete efficiency in its distribution, but it should attempt to come as close as
possible. A state such as this can tolerate many diverse practices among its citizens so
long as those practices do not harm people’s capabilities. But any institutions or
practices that do harm capabilities, that limit the state’s ability to distribute goods freely
and fairly among its citizens, should not be clung to out of nostalgia or irrational affection.

A strong respect for national sovereignty, however, a respect for the existence of the state in itself can only be justified if one believes that the state is something more than a vast and complex mechanism for the distribution of material, social, and psychological goods – that the whole is more than the sum of its parts. One might think that the existence of the state is important because it shapes the identity and character of its members, because it gives them something to define themselves both for and against, because it shapes their understanding of the good. One might suggest that the state in itself is important because, while it is only a means to the end of human happiness, it must be that means not only for us here and now but for those who will come in the future. The institutions of the state are not only part of our collective heritage but also act to preserve that heritage into the future. Finally, one might suggest that the activity of politics, of people coming together to try to figure out how best to structure their relationships, policing each other’s behavior, engaging in reasoned debate about how best to govern, that these activities are essential to a flourishing human life, and, moreover that these activities are intimately bound up with the existence of the state itself. Nussbaum moves in this direction but she still continues to see these things through the lens of autonomy – as expressions of our ability to assert control over circumstances of our lives. Participation in politics, like the other capabilities, is somehow less worthy if it is not chosen freely, i.e. given the proper education and the ability to express oneself and the approbation of society, etc. But given all of these things it could presumably be done anywhere and in any context. I would suggest, however, that there is a stronger relationship individual political participation and the state itself. Genuine political participation is always bound up in a particular context. Full participation in politics requires not just a familiarity with the customs and mores of a place but a true education and immersion in them such that they become one’s own. Such participation also requires investment in the future of a place and identification with its interests. In other words, the forms and usages of political participation, the traditions, the customs, the institutional structures, are part of what makes up the state itself. And as such, the activity of politics is not something that one can separate from the state. 

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only by means of positions like these that one could begin to see patriotism as a justifiable affection and a positive force for good in people’s lives.

1.5 Capabilities and Particular Duties

According to the capabilities approach, each and every individual human being on earth has a right to be provided with a threshold level of the capabilities necessary to live a life worthy of human dignity. Justice requires, at a minimum, that these capabilities be provided for. In our examination of the capabilities approach we have so far explored the relationship between a particular government and its citizens as well as the relationships between nation-states on the international level. We must now direct our attention to the relationships between individual human beings. What exactly are the duties of one individual towards another within the capabilities approach? Given Nussbaum’s contention that nationality is a “morally irrelevant characteristic,” we would expect to see Nussbaum argue that the duties of an individual do not in any way depend where one lives or any other such irrelevant characteristics. As we shall, however, the case is not quite this simple.

As we have mentioned above, the primary responsibility for the provision of capabilities to all people devolves upon institutions rather than on individuals. Nussbaum does not, therefore, speak very much about the duties of individuals towards one another,

99 Nussbaum indicates in Women and Human Development (75) and again in “Aristotle, Politics, and Human Capabilities” (126) that the provision of a threshold level of capabilities may be a necessary but not sufficient condition for justice and that therefore her capabilities theory, as an account of justice, is currently incomplete. “The determination of such additional requirements of justice awaits another inquiry” (Women and Human Development, 75).
but we can extrapolate certain general principles. If an individual is a member of a
government institution his or her individual duty consists in formulating and then
implementing government policy designed to provide all individuals with a threshold
level of capabilities. By the same token, if one is a private citizen one’s individual duty
consists in submitting to whatever burdens the government may need to impose in order
to carry out its capabilities-oriented policies. (And, one might add, acting to ensure that
the people chosen to be a part of governmental institutions see it as their duty to provide
for capabilities). This would mean voting for elected officials who are committed to the
universal provision of capabilities and being supportive of policies that provide people
with a threshold level of capabilities even when those policies may significantly reduce
one’s own resources. One might also include in this list the duty to uphold good laws
(i.e. those supportive of universal capabilities).

This seems a fairly straightforward sketch of what is required of the individual
under Nussbaum’s theory; however, I would suggest that there are several problems
associated with it. First, we must consider the fact that, as outlined in the previous
section, we are not dealing with one universal distributive institution, but rather with the
continued existence of individual nation states. The tendency of nation-states as they
now exist is to prefer the interests of their own citizens above the interests of citizens of
other nations. This does not mean that our elected officials think that it is permissible to
do anything at all to other nations, but just that they prioritize the needs of their own
nations above others. We can see this in everything from protectionist tariffs, to patent
and copyright enforcement, to tax incentives for corporations to keep local jobs. I would
suggest that all of these behaviors would be problematic, if not completely prohibited
under the capabilities approach. It is not just that elected officials act this way, it is, rather, that they have an institutional incentive to do so. As long as we have individual nation-states and thus individual elections, this incentive will continue to exist because the elected officials are only answerable to those who vote for them.

An elected official might also feel that he or she has an obligation to the people who elected him or her to prefer their interests over the interests of others. The elected official might feel that he or she has a particular obligation to a specific constituency because of their relationship to it. Nussbaum, however, would deny that this is the case, and it is here that we encounter another problem with Nussbaum’s view of the duties of an individual. The contention that our duties are the same towards everyone regardless of our personal relationships is, I would argue, rather at odds with our considered moral judgments. Most people would probably subscribe to the view that one has a greater duty to ensure that one’s own children don’t starve than one does to alleviate the suffering of children in the Sudan or to the view that one has a greater duty to take care of one’s own mother in her old age than to pay one’s social security taxes. Perhaps, the idea of having different duties towards different people is unsustainable in a rational ethical system.

Perhaps, these statements are not true, but Nussbaum must, according to her own procedure, acknowledge the extent to which they reflect some of the considered moral judgments present in our society. We may think that evenhandedness and impartiality is the proper attitude of a government, but the same cannot be said of an individual.

In acknowledgement of this fact Nussbaum builds into her theory a place for us to give “special attention to our own families and to our own ties of religion and national belonging” (FLC, 135). Paying “special attention” to those close to us, those with whom
we have personal relationships, can be justified from her universalist perspective. It is morally acceptable for everyone to concern themselves primarily with providing for the capabilities of those closest to them because this is the most efficient way to see that everyone’s needs are met. “Politics, like child care, will be poorly done if each thinks herself equally responsible for all, rather than giving the immediate surroundings special attention and care.”

Nussbaum does not elaborate this position at length but it is clear from what she does say that this is an argument about organization and efficiency. It is not that we really have different duties towards our friends and family, it is just that we are able to fulfill our general duties towards them in a different way. For the fulfilling of our duties towards people far away from us, we must rely on the institutions of government. In her article “Duties of Justice, Duties of Material Aid: Cicero’s Problematic Legacy,” Nussbaum strongly criticizes Cicero’s contention that we have greater duties toward our families and our fellow countrymen than we have towards strangers. She writes: “We might even grant to Cicero that families are usually the best performers of duties to children, and that nations similarly, are the best protectors of various interests of citizens – without treating these duties as special duties in any deep or fundamental way. That is, we may see the so-called special duties as good ways of channeling the general duties we have to other humans worldwide.”

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100 Nussbaum, For Love of Country, 13. Nussbaum repeats some version of this universalist argument for particular duties in a variety of different places throughout her work. She often attributes this position to the ancient Greek and Roman Stoic philosophers as in her essay “Kant and Stoic Cosmopolitanism,” in The Journal of Political Philosophy 5, no. 1 (1997): 9. She most clearly identifies it as her own position, however, in her essay “Patriotism and Cosmopolitanism” and the “Reply” to the critics of that essay (For Love of Country, 13; 135-6).

Thus, in Nussbaum’s understanding of justice, we have the same general duties towards everyone but the most efficient way to fulfill these duties is for everyone to pay special attention to the needs of those closest to them. What, then are we to make of this argument from efficiency? Does it give a satisfactory account of individual duties? It might be as well to begin by suggesting that perhaps the program for the distribution of duties advocated by the efficiency argument is not really all that efficient. Nussbaum seems to take it for granted that the best way to provide everyone with a threshold level of capabilities is for all of us to pay attention, first and foremost, to the needs of those close to us. She takes this position both with regard to individuals and to governments – she continues to tolerate the existence of a variety of nation states in part because of considerations of practicality and efficiency in the distribution of capabilities. However, from a purely practical standpoint it would seem that having an impartial and detached distributor would be the easiest way to ensure that everyone is treated fairly. People have a tendency to develop affection for the people close to them – for those whom they regard as their own – and this can lead them to want to give those people more than their fair share. Socrates certainly recognizes the potential for this problem and so advocates the community of women and children in his ideal republic. Socrates suggests that if people have things which can properly be considered their own then it is easier to ignore the sufferings of others. With the community of women and children comes a “community of pleasures and pains” – the whenever one person suffers we all feel it as a deprivation.102 It would seem, then, that encouraging personal and familial attachments could be just as morally dangerous as encouraging patriotism.

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102 Plato, Republic, 464A.
Secondly, we might suggest that the boundaries of individual duty under the efficiency argument are a little bit fuzzy. It is not entirely clear what types of differential treatment for those close to us are authorized by this argument. In other words, what exactly constitutes an acceptable level of “special attention” towards our family and friends? Nussbaum argues that it is morally acceptable for her to “devote an immense amount of love and care” to her own daughter rather than to try “to help all the world’s children a little bit.” But she questions whether or not she would be justified in giving her daughter an expensive college education while “children all over the world are starving and relief agencies exist.”

The same questions arise with regard to politics and privileging the needs of one’s fellow citizens. Nussbaum asks: “May Americans enjoy their currently high standard of living, when there are reasons to think the globe as a whole could not sustain that level of consumption?” Nussbaum does not answer either of these questions. She simply maintains that it is important for us to ask them and to “most seriously consider the right of other human beings to life, liberty and the pursuit of happiness” when making our political and economic decisions.

Nussbaum does not offer the reader much specific guidance in these difficult areas, but I would suggest that, according to her own theory, the answer to these questions must almost certainly be no. The basis of the efficiency argument is that everyone is owed the same things: a threshold level of capabilities. The end is to provide everyone with the requisite capabilities and the means to achieve that end is that everyone concerns themselves with those closest to them. There is no justification for preferring

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104 Ibid., 13.
one’s own other than efficiency. If giving my own daughter or my fellow countrymen something extra precludes the possibility of others reaching even the threshold level, such a distribution is not warranted. I would (I imagine) be free to give my daughter love and emotional support such as only a parent can provide because such attention does not rob others. But I would not be allowed to spend extravagant amounts of money on her. Must I then support my family at a subsistence level and give all my excess money to the poor? I do not think that Nussbaum would necessarily require such extremes, but she gives no guidance concerning where to draw the line.

She emphatically rejects the line that Cicero attempts to draw distinguishing “duties of justice” from “duties of material aid.” According to Nussbaum’s account, Cicero believes that we have a general duty of justice to avoid actively doing harm to anyone – whether they are a neighbor, a friend, a family member, or just a fellow human being. This general duty to refrain from doing harm includes refraining from taking other people’s property. But when it comes to actively giving aid to people – money, food, shelter or other material goods – we are not only allowed but obligated to give greater help to those closest to us. This distinction between positive and negative duties of justice has been extremely influential on our cultural beliefs and laws, Nussbaum argues.

105 “The General line he takes is that duties of justice are very strict and require high moral standards of all actors in their conduct across national boundaries. Duties of material aid, however, allow much elasticity and give us a lot of room to prefer the near and dear. Indeed, Cicero thinks that we positively ought to prefer the near and dear, giving material aid to those outside our borders only when that can be done without any sacrifice to ourselves.” (Nussbaum, Duties of Justice, 178).

106 “Although many international documents by now do concern themselves with what are known as second-generation rights (economic and social rights) in addition to the standard political and civil rights, they typically do so in a nation-state based way, portraying certain material entitlements as what all citizens have a right to demand from the state in which they live. Most of us, if pressed, would admit that we are members of a larger world community and bear some type of obligation to give material aid to
Nussbaum claims that Cicero’s view on this subject, which has been so influential on subsequent generations, is based to some extent upon the Stoic belief that external goods are completely unimportant to happiness. You are not harming another person in another nation if you fail to give them food when they are starving because happiness depends upon an internal state of the soul rather than upon external goods. Nussbaum quite correctly points out that this argument cuts both ways. If external goods are unimportant to happiness, then murdering someone or taking their property is no more of a harm than letting them starve. There appears to be no reason for Cicero to forbid one and not the other. Moreover, Nussbaum does not find the distinction between sins of omission and sins of commission to be convincing either. Cicero himself recognizes that sitting passively by while other people are being assaulted is impermissible. It may be worse to actively assault someone, but “this distinction, while morally relevant, does not entail that no wrong is done by the person who sits by.”

Nussbaum’s point seems to be that if to sit passively by while someone kills your family or while they starve to death is a wrong (as we must surely agree that it is) then to sit by while thousands of children starve and are killed by mercenaries in the Sudan is equally a wrong. The fact that geographically the former group of people is few feet away from me and the latter is a few thousand miles away should not matter from a moral standpoint. It may make it more difficult for me to help those in the Sudan, but I must at least try and avail myself of poorer members of that community. But we have no clear picture of what those obligations are or what entity (the person, the state) is the bearer of them. . . I shall argue here that not only our insights into the ‘duties of justice’ but also our primitive thinking about the duties of material aid can be laid at the door of Cicero” (Nussbaum, *Duties of Justice*, 177-8). It is worth pointing out that Nussbaum’s own capabilities approach views material aid in a very similar fashion to those ‘international documents’ she mentions here, as rights which can be demanded of individual state governments.

107 Nussbaum, *Duties of Justice*, 194.
all available institutions to do so. My duties toward the children of the Sudan are no different in principle than my duties to my own children.

There is a certain pleasing symmetry to such an argument, but I would, first of all, suggest that this understanding of individual duties does not go very far towards helping us to know how to act in a particular situation. Should I give all of my excess income to others who are in greater need? What constitutes excess income? Do I need to buy a house with a bedroom for every child, or is a smaller one all that is strictly necessary? What people are in the greatest need and how can I give my income to them? How do I measure the need of people in very different circumstances? How do I go about supporting policies that provide for everyone’s capabilities? What if there are no politicians running who have the proper views on this subject? Am I required to refrain from buying things from companies that exploit their workers? What does exploit mean? Does it mean something different in India than it does in the United States? All of these questions and many others confront someone who seeks to fulfill their duties under Nussbaum’s capabilities theory. A distinction between sins of omission and sins of commission, if you will, like the one that Cicero employs makes these sorts of questions much easier to answer.

Moreover, Cicero is not making an argument that geography is somehow morally relevant; he is making an argument that duties can be affected by relationships. As enfleshed beings we live our lives through time. Cicero is suggesting that when I ask what my obligations are at any particular point in time, I cannot answer this question without placing myself within the narrative of human relations. Each of us is born into particular groups and particular relationships. As time goes on, we enter into new
relationships and take on new roles; we engage in various transactions with particular people and in so doing incur obligations to them. Cicero makes the distinction between duties of justice and duties of material aid in order to distinguish people who are part of our group and with whom we have engaged in various transactions in the past from those with whom we have no relationship other than our present encounter. To answer the question what are Jane’s obligations to John, we must also ask what role Jane has in John’s life. Is she his mother, or his neighbor, or his friend? If she is then her obligations toward him will be affected by their previous relationship, the role she has undertaken in his life, or the transactions they have engaged in. If the only relationship that they have is that of two strangers who encounter one another in the woods one day, then, Cicero suggests, Jane’s duties towards John only consist in refraining from hurting him and helping him if he is in dire need.

Nussbaum is clearly uncomfortable with the way in which the random circumstances of fate seem to have a profound effect upon a person’s ability to be happy: you are born a woman or a Hispanic or in Cambodia and these accidents automatically assign you to some group. You then receive certain burdens and certain benefits based upon membership in a group constituted by a completely meaningless characteristic. Nussbaum contends that these group distinctions are arbitrary – meaning that they are based in opinion rather than in nature. The only group that is “natural,” so to speak, is the species group and, in so far as we are all human beings, we all have equal dignity and need the same things in order to live a life worthy of that dignity. Alternatively, I would suggest that while our membership in any particular group may be arbitrary, the fact that we are in a group at all is not. The opinions of society may lead us to endow certain
distinctions among us with meaning and to ignore others, but as human beings we are
naturally sociable. We will form relationships with particular people; we will create little
societies and groups within the larger group of all human beings. Moreover, it is not
unreasonable to suggest that membership in these groups, the relationships that we have
formed, will place us under certain obligations and create certain duties towards our
fellow members. To ignore these claims is to treat people as if they have sprung fully
formed from the head of Zeus.

By the time one reaches the stage of life at which one can even consider one’s
duties in the abstract manner which Nussbaum suggests, one has already formed a myriad
of relationships. Your parents have raised you, lavishing time, energy and resources on
your proper upbringing. The state has provided your parents, and by extension you, with
a free and peaceful space in which to live and oftentimes a variety of resources. A
variety of different groups such as community or church or ethnic groups may have
provided you with a moral and cultural upbringing, training in certain customs and habits,
a mode of interacting and engaging in personal relationships. All these groups and
communities in turn need things in order to be sustained, in order to provide for others in
the future what they have done for you. To say to someone that from this arbitrary
moment in time X you must begin to think of yourself as a member of the human race
over and above your membership in any of these smaller groups, that you must consider
what all human beings need rather than privileging the needs of those closest to you, and
that you must devote yourself to promoting the needs of individual human beings rather
than considering the needs of any group would be to ask a person to ignore all that has
come before that moment – the obligations that they may believe they have incurred and
the affection which they feel. To convince people that when it comes to duties need is all that genuinely matters is, I would suggest, not only wrongheaded but also impossible.

It is easy to see why, given her universalistic view of duties, Nussbaum rejects patriotism as at best a primitive fetish and at worst dangerous fanaticism. In her mind, our duties toward one another are determined by what we each need in order to possess the requisite level of capabilities to live a fully human life. We all need roughly the same things by virtue of the fact that we are all human beings. Any view of the world which divides us into groups based not upon our needs but upon other factors hinders the provision of equal capabilities to everyone because it encourages us to place importance upon morally irrelevant characteristics. This, as has been said before, applies to all sorts of groups – including racial groups, ethnic groups, gender groups, and national groups. Preferring members of our own group even in a way which is not, initially, actively detrimental to other groups can prove dangerous. Firstly, it violates the demands of impartial justice. But, perhaps, more importantly preference for one’s own group is inextricably related to both a belief in the superiority of one’s own group and a desire to dominate other groups. To encourage feelings of patriotism, of attachment to one’s own country, is to invite unjust behavior on the part of citizens.

108 “Frequently, however, we get a compassion that is not only narrow, failing to include the distant, but also polarizing, dividing the world into an ‘us’ and a ‘them.’ Compassion for our own children can so easily slip over into a desire to promote the well-being of our own children at the expense of other people’s children. Similarly, compassion for our fellow Americans can all too easily slip over into a desire to make America come out on top and to subordinate other nations” Martha C. Nussbaum, “Compassion and Terror” in Daedalus 132 (Winter 2003): 13. Nussbaum seems to treat this phenomenon as an artifact of human psychology. The belief that a citizen should work for the betterment of his own nation before others is logically separable from that citizen’s belief that his country is superior to other nations, however, the two almost always go together in real life. It is important to note, however, that even without this tendency of the human mind to denigrate the other, preferring one’s own country would still be a violation of the duties of justice in Nussbaum’s estimation.
If however, as I have suggested, distinctions between groups can be morally relevant, then we can see the beginning of an argument in favor of patriotism. Feelings of affection for the nation as a whole and for one’s fellow countrymen may be the result of an ongoing and beneficial relationship, a day to day exchange of goods and services between citizens, shared customs and mores, gratitude for services rendered, for the upbringing made possible by the very existence of the state. Any or all of these things may play a role in patriotism. The point is that the continuing relevance of patriotism can be seen as a reflection of the power which group affiliations of some kind play in all of our lives. If it is true that relationships and group membership can create moral obligations then feelings of affection for one’s country can be seen as encouraging moral behavior. Moreover, if the state can be a source of moral obligation then acting to promote the interests of the state and of our fellow citizens may be justifiable. As I have said, the boundary lines which divide one country from another may be arbitrary, but the relationships which they create and foster need not be as well.

1.6 Capabilities as a Matter of Justice

In the previous sections, I have suggested that Nussbaum’s theory of capabilities results in a great deal of confusion about precisely what duties of justice it requires. Where should a particular government draw the line between providing all of its citizens with capabilities and allowing them the freedom necessary to live their lives as autonomous beings? Where does one state draw the line between encouraging other states to provide their own citizens with capabilities and allowing people the freedom to decide how to rule themselves? And finally, where does an individual draw the line
between expending their resources on those close to them and expending them on people in other places who have greater needs? I have suggested that Nussbaum’s theory does not allow for the possibility of answering any of these questions in a principled manner. I will now suggest that it is not simply that Nussbaum’s theory is in sufficiently detailed on these particular points, it is, rather, that her universalistic and impersonal approach to justice forecloses the possibility of answering these sorts of questions.

Nussbaum constructs her capabilities theory based upon a universal understanding of human flourishing or the human good. This sets her apart from many other liberal theorists, such as John Rawls, for example. I do not mean to suggest that there can be no such thing as a universal description of the human good. In fact, as we shall see, my own understanding of patriotism in part relies upon one. The problem arises, rather, because while Nussbaum acknowledges that human flourishing itself is an end, her capabilities are means to that end and she makes the provision of them to every human being a matter of justice. Nussbaum quite clearly sees that justice is a matter of giving to a person what is due to them. She thinks that since we are all equal human beings we are all equally owed what is necessary to live a flourishing human life. The problem is that when you begin from an understanding of what human beings are in the abstract, you do not see them in all of their particularity, as beings with a past that have formed various relationships and given and received a variety of resources over the course of their lives. When human beings are seen in this manner, what is due to them becomes almost entirely a matter of distribution rather than transactions and exchanges. However, this understanding of justice does not adequately capture the truth of the human condition.
The question of what is due to a person inevitably involves considerations that are specific to that person’s particular life circumstances. Nussbaum is quite ready to accept that in order to understand what is owed to Jane we have to ask what Jane’s current resources are and what she needs in order to bring her up to the threshold level of capabilities. I have already suggested how this question, under Nussbaum’s own system, is very difficult to answer. What constitutes a threshold level of bodily integrity, for example? Does it mean that one has to live one’s life completely free from assault? How could any government expect to fulfill such a requirement for all of its citizens? Is it an acceptable threshold if most of the citizens are protected from assault most of the time? What about the ones who do suffer assault? I would now suggest that, in addition to requiring these sorts of difficult judgment calls, the capabilities approach ignores an important aspect of Jane’s situation. By focusing only on the distributive aspect of justice, the capabilities approach does not take into account the promises and commitments that Jane has made or the roles that she has taken on. More importantly, perhaps, it does not take into account the commitments and the roles of those persons who are going to have to sacrifice their resources so that Jane can have what she needs to reach a threshold level of capabilities.

The capabilities approach must require taking away resources from some people and giving them to others who are in need. Although Nussbaum does not focus on this aspect of her theory, she certainly acknowledges it. Because her approach is so self-consciously individualistic she only considers the needs of every individual in comparison to the threshold level of capabilities. She does not consider what we give to others from our resources or the possibility that by taking away some of our resources in
the grand redistribution, she takes away our ability to abide by the commitments we have made and the obligations that we have incurred to those around us. If Jane has to work more to pay her increased social security taxes, she may not have the time to fulfill her volunteer obligations and take care of her children. Is it just for Jane to renege on her commitments to those around her in that the government can provide health care to the elderly? I would suggest that the answer to this question is by no means obvious, but any account of what Jane owes or is owed must take into account more than simply the fact that Jane is a human being. It must take into account all of the benefits that Jane has received in the past and from whom she has received them as well as the commitments that she has made on her own behalf. All of these transactions involve particular people. Jane has received many resources in her life, but she has not received them from “the world-wide community of human beings.” Jane has both received things from particular people and groups and given things to them. One might well argue that Jane owes to these people more than she owes to strangers on the other side of the world.

It is worth noting at this point that the capabilities which Nussbaum believes are necessary for a flourishing human life are quite extensive. It is quite a leap from saying that no one can be happy on the rack to saying that no one can be happy who does not possess the right to participate in politics, leisure for recreation, the ability to live in harmony with nature, and the ability to have a healthy emotional life. It is perhaps fair to speculate that, while Aristotle was convinced that some modicum of external goods were necessary for happiness, he did not envision anything quite so extensive as Nussbaum’s capabilities list. For one thing, it essentially removes the possibility that any but a very small minority of people living at Aristotle’s time, or, indeed, at most any other time in
human history, could have lived a flourishing life. Being able to participate in politics and to own property (capability #10) are things that have only become commonplace in very recent times. The contention that many resources are required for flourishing seems to undervalue the lives of people who get by with very little. It also does not allow for the possibility that at different times and in different places people need different amounts in order to live well. Such a consideration might be very relevant when Jane is trying to decide whether to send her daughter’s college education money to a refugee camp in Darfur.

The point here is that by making the capabilities necessary in order to live a flourishing life into a matter of justice Nussbaum vastly increases the importance of the question of how to distribute our resources while at the same time making that question impossible to answer. When it comes to the distribution (and redistribution) of resources questions of how much and what sort are essential to the entire enterprise. Yet, these questions can only be answered within a specific context, a context which is already inhabited by past transactions and relationships and obligations. Any scheme which ignores this context not only goes against our considered moral judgments, but also

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One might reasonably argue that Nussbaum’s capabilities theory is, in many ways, quite elitist. She declares that anyone who does not possess a threshold level of all of the capabilities on her list is fundamentally incapable of living a life that is worthy of the dignity of a human being. She suggests that people who are very poor, who cannot participate in politics, who are illiterate or unhealthy, are living a life that is somehow less than human. She does not condone this state of affairs, but she must admit, according to her own theory, that a significant percentage of the people who are currently living are existing at a subhuman level and incapable of flourishing. This view of flourishing removes the possibility of achieving goodness totally outside the realm of control of most people. It does not matter what choices these people make in their given circumstances, they are incapable of living truly human lives. I would suggest that this view disempowers people and is not really very egalitarian. A less elitist position would be to declare that human goodness lies in doing the good in the circumstances in which you find yourself and that virtuous behavior is possible for everyone. This is the corrective that a Christian understanding of virtue provides to the Aristotelian position.
removes the question of distribution to a level of generality at which it cannot possibly be answered.

Nussbaum’s critique of patriotism is based upon a conviction that characteristics such as nationality cannot enter into a debate about the distribution of resources because it is a morally irrelevant characteristic. The only characteristics that are relevant to a determination of justice are those characteristics which all human beings share, those things that we all need in order to flourish, i.e. the capabilities. In my exploration of Nussbaum’s capabilities theory in this chapter, I have attempted to show two things about this position. First, I have attempted to show that Nussbaum’s capabilities approach contains many internal inconsistencies and offers insufficiently clear guidance on the all important question: what are my duties in justice? Second, these inconsistencies and lack of clarity stem from the fact Nussbaum’s attempt to construct a universal and impersonal theory of justice ignores many of the realities of the human condition. Specifically, it ignores the extent to which groups (national as well as sub national) are essential to human flourishing and the extent to which human beings live their lives imbedded in a series of relationships and transactions all of which can create obligations in justice. My contention has been that while the characteristics around which we often structure our groups and relationships - nationality, race, gender, etc. - are inherently arbitrary and morally irrelevant, the groups and relationships themselves are not. A nation is more than just a line on a map just as race is often more than just skin color. One of the most important things that all human beings share is their tendency to form groups and relationships that last through time. Such groups do not have standing in Nussbaum’s moral theory and therefore she is bound disapprove of sentiments and activities, like
patriotism, which support such groups. It is only within a theory where the state has some status other than as a massive distributive mechanism that patriotism can be considered to be virtue.
CHAPTER 2:
NUSSBAUM AND THE PASSIONS OF PATRIOTISM

2.1 Critique of the Emotional Component of Patriotism

As we have seen, Nussbaum understands patriotism to be both an activity and an emotion. To act as a patriot, according to Nussbaum, means to allow considerations of nationality to enter into one’s deliberations about justice and the duties that it entails. In Chapter 1, I have attempted to illustrate why Nussbaum thinks that this activity is morally reprehensible. All human beings possess equal dignity and an equal right to live a life in accord with that dignity. The only relevant considerations when deliberating about justice are the capabilities that all human beings need in order to live a flourishing human life. Nationality and citizenship are thus morally irrelevant characteristics and should not be allowed to affect our deliberations about justice. There is another important component to patriotism, however, and that is the affection for one’s country that motivates one to include nationality in one’s moral deliberations. Nussbaum believes that patriotism is a dangerous emotion, but she also understands that emotions can be a powerful motivating factor in human action. In the following chapter, I will attempt to explain Nussbaum’s understanding of the emotional aspect of patriotism, how she thinks it comes about and why it is dangerous. I will also explore her understanding of compassion or “purified patriotism” as an alternative and more reliable motivating factor in human behavior.
In her essay “Patriotism and Cosmopolitanism,” it is clear that while Nussbaum understands the emotional power of patriotic sentiments, she profoundly mistrusts them. It is Sandip’s emotional rhetoric of passionate devotion to the cause of patriotism which captures Bimala’s imagination in Tagore’s novel. Her husband’s rational cosmopolitanism appears cold and empty by contrast. Bimala is misled by the color and vibrancy of Sandip into embracing his immoral cause, one which ultimately brings about the death of her husband. This theme of a passionate yet dangerous patriotism is repeated throughout Nussbaum’s essay. She speaks of cosmopolitanism as a “lonely business;” the courageous cosmopolitan must make himself an exile, cut himself off “from the comfort of local truths, from the warm nestling feeling of patriotism, from the absorbing drama of pride in oneself and one’s own.”\textsuperscript{110} The signs and symbols of patriotism can often be stirring, but we should be careful to consider rationally what they are directing us towards.

It is not necessary, however, for patriotism to have a monopoly on emotional appeal. In her “Reply,” the essay which concludes the volume For Love of Country, Nussbaum insists that cosmopolitanism, when properly understood, need not be passionless. Patriotism and its attendant trappings have a great deal of superficial emotional appeal, but to one who knows the true requirements of justice, cosmopolitanism can be just as satisfying. “The world of cosmopolitanism can seem boring – to those hooked on the romantic symbols of local belonging. But many fine things can seem boring to those not brought up to appreciate them.”\textsuperscript{111}

\textsuperscript{110} Nussbaum, For Love of Country, 15.

\textsuperscript{111} Ibid., 139.
is, in other words, an acquired taste. Nussbaum suggests that truly great art, that which evokes a passionate emotional response, cannot be merely local or particular. It must reflect universal themes and common human aspirations. She argues that “large-souled and compelling art is generally concerned with the recognition of the common in the strange and the strange in the common – and that narrowly patriotic art, by contrast, is frequently little more than kitsch, idolatry.”\textsuperscript{112} The emotional appeal of patriotism is therefore mostly superficial. As the end of Tagore’s novel makes clear “Sandip only seemed more interesting. As both a sexual being and a rhetorical artist, he was utterly banal.”\textsuperscript{113}

In order to understand more fully Nussbaum’s attitude toward the emotional aspects of patriotism we must turn to consider briefly her theory of the emotions as she presents it in her 2001 work, \textit{Upheavals of Thought}. In this work, Nussbaum begins by rejecting the notion that emotions are completely irrational impulses or movements of the soul. She argues instead that emotions are cognitive judgments about objects and people which are external to ourselves. “Emotions are appraisals or value judgments, which ascribe to things and persons outside the person’s own control great importance for that person’s own flourishing.”\textsuperscript{114} The experience of an emotion is essentially the confluence of several perceptions and evaluations about the world around us. For example, to feel grief at the death of a loved one requires that (A) I perceive my loved one is no longer alive in the world and (B) that I judge that my loved one’s continued presence in the

\textsuperscript{112} Ibid., 140.

\textsuperscript{113} Ibid., 141.

\textsuperscript{114} Martha C. Nussbaum, \textit{Upheavals of Thought: The Intelligence of Emotions} (Cambridge, UK: Cambridge University Press, 2001), 4.
world is of great importance to me. This judgment (B) is what Nussbaum calls the
“eudaimonistic” judgment and it is essential for the presence of any and all emotions. In
order for me to feel an emotion about person or object X, I must value X as a part of my
own well-being. When I experience the emotion of love of my country, I am making a
judgment that my country is valuable in the sense of being necessary for my own
flourishing.

Nussbaum’s contention that emotions are essentially value judgments is key to
understanding her critique of patriotism. Emotions, including whatever feelings of love
or affection one might have for one’s country, are not irrational impulses over which one
has no control. They are rather value judgments which are arrived at based upon one’s
upbringing, education, and personal moral standards, among other things. As value
judgments emotions are capable of being “true or false, and (an independent point)
justified or unjustified, reasonable or unreasonable.”

These perceptions of value that I have about various objects in the world can be criticized based upon an independent ethical system. Moreover, because these judgments are, to a large extent, socially constructed, they are amenable to change and movement through education. It is precisely this process which we see Nussbaum follow in her critique of patriotism. She examines the judgments which she considers to be at the root of patriotism, finds them wanting, and suggests that through a certain type of education these judgments can be

\[115\] Ibid., 46.
transformed so as to generate a cosmopolitan compassion or “purified patriotism” in the place of traditional patriotism.\textsuperscript{116}

Here we can see that Nussbaum’s objection to the emotional aspect of patriotism is, like her objection to its active component, a moral one. To feel love for one’s country is to exercise one’s faculty for moral judgment and if such a moral judgment cannot stand up to rational scrutiny then it must be reformed. The emotional and active aspects of patriotism are intimately related in Nussbaum’s scheme. We can perhaps imagine that her hostility towards the passionate side of patriotism will likewise stem from her commitment to an egalitarian universalist moral system. But what precisely about the moral judgments involved in patriotism does Nussbaum find objectionable? In order to answer this question we must probe a little bit more deeply into what we have referred to as the “eudaimonistic” judgment which is so essential to all emotions.

At first glance, the eudaimonistic judgment, the judgment that a certain external object (my country, for example) is an important part of my own well-being, does not seem to leave much room for effective criticism. To take issue with this judgment would be to either insist either that I am mistaken about what is important to my well-being (a factual objection) or that the object in question \textit{should} not in fact be as important to me as it is (a moral objection). Neither of these avenues seems very promising when one considers that well-being is a fairly amorphous term which is often understood in a highly

relativistic manner. We are somewhat accustomed to telling people how they should and
should not behave, but such moral criticism seems quite different from telling people
what should and should not be important to them. Nussbaum, however, means something
relatively specific when she speaks about well-being or flourishing. People may flourish
in a variety of different particular ways, but all human beings need roughly the same tools
or capabilities in order to live a flourishing life. Nussbaum’s “conception of
flourishing is thoroughly evaluative and ethical” from the beginning and as such it
forecloses some behaviors and encourages others. Although there is some
specification of modes and methods on an individual basis, Nussbaum’s idea of
flourishing is not completely relative to the individual.

Moreover, Nussbaum contends that conception of human flourishing as evaluative
is not something that she imposes from the outside, but is, rather, present already in most
people’s emotional evaluative judgments. She speaks of the eudaimonistic judgments as
a judgment about what is an important part of my flourishing, but implicit in this
judgment is almost always a belief in the absolute importance of the object concerned.

Eudaimonism has two aspects: we are saying that such-and-such is an
important part of my own scheme of goals and ends, but we typically think that
this is so because of some real value the item possesses: it is such that, without
that thing (or a thing of that sort), my life would be incomplete. And in building a
conception of eudaimonia for themselves people often seek to build in just those
items about which such true evaluative claims can be made. I am not trying to get
at any old conception, I am trying to get the one that values things aright.

117 As we shall see in the next section Nussbaum generates her universal list of human capabilities,
those which justice requires that we all possess, based upon her evaluative conception of human
flourishing.

118 Nussbaum, Frontiers of Justice, 366.

119 Nussbaum, Upheavals of Thought, 47 (emphasis original).
Thus, Nussbaum argues that there is often an implicit truth claim contained within people’s eudaimonistic judgment. Contained within my grief at the death of a friend is the judgment that it is right for me to feel grief in these circumstances, that it is right for me to value my friend highly. Nussbaum goes on to suggest that love of one’s country sometimes (though not always) takes this form: I love my country because I believe that it has inherent value. In *Upheavals of Thought*, she writes: “In attachment to one’s country, there is frequently the thought that this country has valuable things about it, and that it is a good country.” The problem is that this judgment, like all the judgments that make up our emotions, can be false.

Nussbaum suggests that this judgment about the inherent value of one’s country is often completely unexamined. People tend to take for granted the value of their own familiar way of doing things. Nussbaum contends that “one of the greatest barriers to rational deliberation in politics is the unexamined feeling that one’s own preferences and ways are neutral and natural.” Without examining our own national practices and laws, without putting our behavior under the lens of rational scrutiny, we cannot be sure of its value. We also cannot know the value of our own practices until we have considered the possibility of doing things differently. This requires knowledge of the many different nations in our world and their different approaches to promoting human flourishing. Nussbaum argues that such a wide ranging knowledge is often conspicuously absent in the patriot. Of America she says: “Our nation is appallingly ignorant of most of the rest of the world. I think this means that it is also, in many crucial

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120 Ibid., 49.

ways, ignorant of itself.”\textsuperscript{122} Without such knowledge belief in the inherent goodness of one’s nation is unfounded and feelings of affection for it are irrational.

In turning to evaluate these claims of Nussbaum’s it will be as well to begin by attempting to sort out what exactly it means to believe that one’s country has inherent value or is good. Nussbaum is very unclear on this subject and it makes an evaluation of her argument rather difficult. At the very least, this belief could mean that the country has some qualities which are good or, as Nussbaum puts it, “has some valuable things about it.”\textsuperscript{123} For instance, it could have a well-functioning legal system or system of public education. By implication, of course, this would mean that some of its features are not good. In addition, the notion of goodness or badness must refer to some standard. In this case, we can say that good means tending to promote justice and human flourishing. So, when we say that our country is good we could mean more than simply that it has some good features, we could mean that we judge it to be good on the whole (or considered as a whole). This could mean that it is completely good, possessing no faults and running perfectly in every way or that it possesses more good features than bad when measured up against one another. Or it could mean that the nation, when considered as a whole, acts to fulfill its end or goal as efficiently as it is able. Finally, when we judge our country to be good we could mean not only that it is good on the whole, but that it is superior to all others of its type.

There are quite a few options listed above and without knowing which judgment, according to Nussbaum, the patriot mistakenly makes, it is difficult to evaluate her

\textsuperscript{122} Ibid.

\textsuperscript{123} Nussbaum, Upheavals of Thought, 49.
objection. It is perhaps safe to say that anyone who believed their own country to be perfect in every way would be sorely mistaken. On the other hand, there might be a great deal of legitimate disagreement if we sat down and attempted to weigh up all the good features and bad features in order to decide if America were, on the whole, a good country. However, given Nussbaum’s own belief in a universal moral system she cannot contend that the judgments described above are impossible to make or necessarily prejudiced. Presumably one could, using Nussbaum’s capabilities theory of justice, evaluate one’s country and arrive at a truthful and unbiased assessment of its merits. This might, of course, require a detailed examination of its laws, practices and mores as well as a comparison between it and other nations. But if, having gathered all the pertinent evidence, I found that my country was on the whole a good one, I would presumably be justified in feeling affection towards it. There is no reason, given Nussbaum’s own arguments, to discount such a possibility.

In addition, Nussbaum is exceedingly uncomfortable with the phenomenon of believing one’s own country to be superior to other countries. She continually associates this judgment of superiority with patriotism in *For Love of Country* and elsewhere. Nussbaum allows for the possibility that people may be justified in exhibiting greater care and concern towards their own children, friends, and fellow citizens because that is the most efficient way of tending to everyone’s needs. However, she emphatically insists that this must not entail a belief in the superiority of one’s own. This permission “should not mean that we believe our own country or family is really worth more than the children or families of other people – all are still equally human, of equal moral
worth."\textsuperscript{124} She compares this to an affection for one’s native language. Simply because I have a greater facility in English and am more comfortable with it “doesn’t mean that I think English is intrinsically superior to other languages.”\textsuperscript{125} Nussbaum seems to think that affection for one’s own often either leads to or is the result of a belief in the superiority of one’s own.

Nussbaum also believes that affection for one’s own and a belief in its superiority can lead to hostility towards the other. In “Compassion and Terror,” her essay written after the attacks of September 11, 2001, Nussbaum warns about the dangers of adopting an ‘us vs. them’ mentality. She celebrates the way in which all American displayed compassion for the sufferings of the 9/11 victims, but bemoans our lack of attention to the everyday sufferings of people in other parts of the world. “We think the events of September 11 are bad because they involved us and our nation. Not just human lives, but American lives. The world came to a stop – in a way that it rarely has for Americans when disaster has befallen human beings in other places. The genocide in Rwanda didn’t even work up enough emotion in us to prompt humanitarian intervention.”\textsuperscript{126} Dividing the world up in to ‘us’ and ‘them’ makes it easier to ignore the sufferings of others, but it also makes it easier to be suspicious and hostile towards others. “Compassion for our fellow Americans can all too easily slip over into a desire to make America come out on top and to subordinate other nations.”\textsuperscript{127}

\textsuperscript{124} Nussbaum, \textit{For Love of Country}, 136.
\textsuperscript{125} Ibid.
\textsuperscript{126} Nussbaum, “Compassion and Terror,” 13.
\textsuperscript{127} Ibid.
Nussbaum is uncomfortable with the idea of superiority because it seems to contradict her notion of the equal dignity of all human beings. But we can allow that all human beings have some sort of inherent dignity or that they are all rights bearing-entities while still admitting the possibility superiority and inferiority among them. To take a fairly easy example, admitting the obvious fact that my sister is a better artist than I am does not mean that I am less of a human being than she is. Superiority and inferiority depend on the standard we are interested in or the end which we are pursuing. In terms of nations, superiority and inferiority must be related to the end of human justice. Endorsing as she does a determinate and universal standard of justice, Nussbaum must admit that some nations will do better at fulfilling that standard than others. If I, as a member of one such nation, feel pride in that accomplishment, there is nothing irrational or unjustified in that.

In addition, dividing the world up into groups does not necessarily entail hostility towards the other. It is certainly natural that Americans should feel hostility towards those who attacked us on September 11, but we are by no means hostile to all whom we define as other. Many other nations are our allies and we work in cooperation with them on many fronts. If dividing into groups sometimes leads toward active hostility among them, as we must admit that it does, this does not mean that the two phenomena are either practically or theoretically inseparable. Nor does it seem to me to be a sufficient reason for attempting to eliminate all such divisions. I will argue that divisions among nations not only serve in many ways to promote human flourishing but also that they reflect certain truths about the human condition which we cannot and should not attempt to alter.
What really bothers Nussbaum about patriotism, however, is its unreflective nature. By any objective standard the Rwandan genocide inflicted more suffering than the attacks of September 11, but the western world did nothing to stop it from happening. “The plight of innocent civilians in Iraq never made it onto our national radar screen. Floods, earthquakes, cyclones, the daily deaths of thousands from preventable malnutrition and disease – none of these makes the American world come to a standstill, none elicits a tremendous outpouring of grief and compassion.”128 The sufferings of other people, no matter their size, will always be less important to us than our own sufferings. This is the kind of mentality which patriotism reflects and encourages. When pressed, Nussbaum may admit that a well informed and rational examination of the various nations and cultures of the world would reveal that some are more adept at providing justice to their citizens and are, therefore, in that specific sense, superior. And, moreover, by some coincidence that country which is superior in terms of justice may happen to be my own. In which case, my patriotic sentiments would be fully justified. But this is not the way patriotism really works.

Patriotism is sometimes based upon an unexamined belief in the goodness of one’s own country, but there are many other instances, Nussbaum argues, when the question of goodness – unexamined or otherwise – simply does not enter into it. Nussbaum’s notion of the “eudaimonistic judgment” as a necessary part of all emotions is based upon the Aristotelian concept of eudaimonia as happiness or flourishing. The eudaimonistic judgment is a judgment about what is necessary to our own flourishing and it is also, as we have seen, often a judgment about those things which are necessary to

128 Ibid.
human flourishing in general or absolutely. However, Nussbaum separates her own view from the Aristotelian one when she declares that people can have affection for or attachment to persons and objects which they do not believe to be good. She writes, “people cherish and value things that they do not really think are good, things that they would not be prepared to commend to others. Often they love a person, or a house, or a country, just because it is theirs, the one they have grown up with. At times they may actively disapprove of the person or country that they love – but, after all, it is theirs, and in some way or other they love and cherish it.”\textsuperscript{129} In these instances, she argues, “habit and time” act to make the object in question important to me rather than any sort of “thoughts about the good.”\textsuperscript{130} Nussbaum also goes on to suggest that in certain instances it would be highly inappropriate to consider the goodness of the object of one’s affection as for instance in relationships between parents and children. “Whether the object of my love is a child, or a parent, or a lover, there seems to be something deficient about taking the inventory of a person’s good points, as though love is somehow based upon them.”\textsuperscript{131} She argues that both love of the familiar and unconditional love are common human phenomena which the ancient concept of eudaimonia fails to take account of.

Let us attempt to unpack these claims. First, the eudaimonistic nature of the emotions seems to be somewhat confused. She first insists that eudaimonistic judgments “typically” contain some sort of implicit truth claim. In other words, we generally believe that the things which we value for ourselves also have some sort of absolute value

\textsuperscript{129} Nussbaum, \textit{Upheavals of Thought}, 51.

\textsuperscript{130} Ibid.

\textsuperscript{131} Ibid.
in themselves. She then goes on to argue that there is a whole category of things which we value despite our belief that they are not good in any absolute or universal sense (indeed, sometimes they are actively evil). And she faults Aristotle for ignoring this common human phenomenon. Second, and more importantly for our purposes, Nussbaum faults patriots for the unreflective nature of their affection for their country. Their belief in the goodness of their country is often not based upon any actual information about its good and bad qualities. Yet, here she contends that adding up the good and bad qualities of the object of one’s affection is sometimes highly inappropriate. It is acceptable to love one’s parents without examining their good and bad qualities and it is acceptable to love them even when you know that they are not good people. But, such an attachment to one’s country is dangerous and should be discouraged.

Perhaps, Nussbaum thinks that there is an important moral difference between family or personal relationships and the relationship which we have with our country and our fellow citizens. She has already made clear that she thinks that national boundaries are morally arbitrary and therefore cannot be the basis for determining what our moral duties are. However, she does not seem to think that family relationships are any more morally relevant. In *Women and Human Development*, she asserts that families have no moral standing in her theory of justice, only persons do. The family, she contends, does not exist by nature and is completely an artifact of the state.  

132 Given these positions it seems odd that affection for family should not be subject to the same rational moral scrutiny as affection for one’s country. Moreover, the driving purpose behind her work on the emotions seems to be the belief that they can and should be shaped by moral and

132 For a full account of this argument see Nussbaum, *Women and Human Development*, 254; 262.
philosophical education so that they will better support the relationships of justice and compassion demanded by her moral system.

What becomes clear from the preceding discussion is that Nussbaum thinks love of one’s country, like other types of affection, comes in different forms. Sometimes it is based upon a belief (often mistaken or unexamined) in the goodness of one’s own country. Other times, however, it is simply a love of what is one’s own. As we have already dealt with the first claim in some detail, let us move on to the second one. Is Nussbaum correct to suggest that love of one’s own has nothing to do with the goodness of the object? She suggests that “habit and time” can breed affection for something that is familiar, an affection which is not related to the objects goodness. She uses the following example: “I think Finland a fine nation, and in some sense I value it, on reflection, more than I do the United States. To some extent I also love it. But I still feel like a stranger there, and I have a certain love for the United States that is not at all proportional to my reflective evaluation.”133 The phenomenon which Nussbaum describes sounds very plausible; a person who has lived long abroad may retain a deep affection for their home country even while acknowledging that their adopted country is superior in many ways. But where does this affection for one’s home country come from? Does it have nothing to do with goodness; does it, as Nussbaum seems to suggest, defy reason?

I would suggest that to describe this sort of affection as the result of the passage of time or the strength of habit does not really do justice to the phenomenon. Familiarity may sometimes breed affection. Familiar laws, customs, and people make navigating the

133 Nussbaum, *Upheavals of Thought*, 51.
terrain of our everyday lives and pursing our personal goals that much easier. The otherness of new and different people and places requires a great deal more effort on our part. But familiarity does not always breed affection; in fact, it often breeds contempt. Critique of familiar cultural icons is practically the *raison d’être* of much of contemporary American art. Scathingly contemptuous portrayals of suburban life abound: from the popular television series *Weeds* about a suburban mother who sells marijuana to its 1960’s theme song “Little Boxes” by Pete Seeger. Works which portray the so-called American dream as empty consumerism are also myriad – consider Gatsby’s tragic and unending search for the green light, to name but one. The distinction is clear: the familiar breeds affection when one experiences it as good and contempt when one experiences it as bad.\(^{134}\)

The relationship between parents and children, which Nussbaum speaks of, operates, for the most part, along the same principle. If one has an experience of being raised by parents who, for the most part, fulfill the role of parents, are nurturing and kind, then one will develop an affection towards them. The simple passage of time, the habit of seeing and interacting with them every day cannot, I would argue, create such affection unless one perceives one’s parents as in some way good. Parents are, as Nussbaum suggests, an essential part of human flourishing but only if they succeed to some extent in performing the proper role of parents. If one’s experience of growing up is a continuous stream of abuse and neglect at the hands of one’s parents, then one will

\(^{134}\) The argument that follows is meant to suggest, in a preliminary way, the possibility of a relationship between love of the familiar and love of the good. A fuller explanation of how it is that we come to love various particular things is contained in the discussion of friendship in chapter 6 of this dissertation. In the discussion of friendship, I explain the relationship between love and the good in terms of perception of affinity between the lover and the object of his or her affection.
not, I imagine, develop a great deal of affection for them. Any affection that one does have will be based on some remembered experience of the good, no matter how small. Nussbaum suggests that there can be such a thing as unconditional love in which the goodness of the object has no relevance at all. This is a phenomenon which we traditionally speak about as existing between parents and children even if we have never experienced it ourselves - the mother who continues to love her son despite the fact that he is a confessed murderer, for example.

Let us look a little more closely at this idea, however. Nussbaum suggests that in the question of love between parents and children is something “deficient” or inappropriate about weighing up good and bad qualities. We do not decide how much to love our child based on how good of a person we think he or she is. In this sense, she is surely right about unconditional love. But does this mean that goodness has nothing to do with the love we feel? I would suggest that, perhaps, the love parents and children have for each other is based upon a shared history and mutual experience of the good. Whatever sins a child may commit later in life, those memories are still a part of our mutual experience. And whatever it was inside of them which made those experiences good is a part of who they are and what we love. Nussbaum is correct to suggest that there is something inappropriate about weighing up and measuring your child’s good and bad qualities in order to judge whether or not they are deserving of your affection. However, this sort of detached accounting of good and bad features is not the only way to have knowledge of a person. I would suggest that we can have knowledge of another person through our experience of them and if that is the case then our love for them is not irrational (although it is certainly unreflective).
The same principles can be applied to affection for places or objects. Nussbaum suggests that a person can love his or her country or house or other object simply “because it is theirs, the one they have grown up with.”¹³⁵ This is a common way of speaking about our affection for things that belong to us – but what exactly is the nature of this phenomenon? What exactly does it mean to possesses something, for it to be ‘one’s own’? In the first and most obvious sense there has to be some physical relationship between us and the object. But there are plenty of things that we own that we do not feel any particular affection for. I would suggest again that we have affection for those things which we have good experiences immediately associated with or that perform their particular function in our lives peculiarly well: for example, think of your favorite pair of heels which are both comfortable and good looking or your favorite running shoes that you ran your first marathon in. It is not simply your possession of them (legal or otherwise) or the length of time that you have owned them which create the affection. It is the experiences that you have with them. To take a more complex example, a few years ago my parents sold the house in Houston which I grew up in. Neither I nor any of my siblings felt any particular regret over this move, whereas, when in 1987 my parents sold the house in New York that I was born in and moved to Houston we were all extremely upset. We lived in the house in Houston much longer than the one in New York, yet none of us felt any special affection for it. It is not that I had no pleasant experiences of growing up in Houston; it is simply that these experiences were

not intimately related to the place itself – they could have happened in most any other house.\textsuperscript{136}

Finally, we can apply these same principles again to the phenomenon of patriotism – or love of one’s country. Nussbaum contends that patriotism is often simply an affection formed by habit or time – loving something because it is one’s own. But again I would argue that this characterization does violence to the phenomenon. There are clearly some people who never form any deep affection for their native land. It is not necessarily because they did not have any pleasant experiences of growing up there (although this might be the case). It could simply be that they do not have any good experiences that are intimately associated with the nation itself. What makes some people experience certain events as grounded in or intimately related to their particular country? This is a complicated question because a nation exists partly in space, partly in our memories and partly as an idea.

A full explanation of how one comes love one’s country requires an exploration of the idea of patriotic narrative.\textsuperscript{137} However, I can offer here a few preliminary observations. As physical beings all of our experiences take place in a particular place and at a particular time. But the physical features of a place are not the only thing that is relevant to an experience. How we characterize that place in our minds will affect how

\textsuperscript{136} In addition, the house in New York was a beautiful old turn of century house with lots of stairs and windows, beautiful wood features, and many endearing quirks. Our house in Houston, on the other hand, was a not very prepossessing modern one-story ranch house built in the 1970’s. The anonymous and not very aesthetically pleasing features of the Houston house did not lend themselves to experiences and memories that were firmly place-grounded. This is not the place to argue extensively for a theory of aesthetics, but I would suggest that a pleasing and functional aesthetic helps a house to fulfill its proper role as a home. My lack of affection for the Houston house was not unrelated to its relative ugliness.

\textsuperscript{137} A fuller discussion of patriotic narrative is contained in the Chapter VII. See pp. 335-354.
we experience a certain event: as taking place in a house, or in my grandmother’s house, or in a small town, or in my home town. The physical boundaries of a country exist in space, but they are not as obvious as the physical boundaries of a house. To have experiences that are associated with or grounded in one’s nation, one must, to some extent, be taught to regard oneself as a part of it. One must be taught about its history and its ideals and one must be educated to participate in it. If one is taught to think of oneself in this way, then one will have experiences that are particularly associated with being a citizen and a member of a national group. One will either experience one’s nation as performing a positive role and promoting flourishing or one will not. A positive experience will breed affection and a negative one will breed contempt. But if one never comes to regard oneself as a member of a particular nation there will probably not be a great deal of emotion one way or the other.

Thus, I would argue that referring to patriotism as love of one’s own or love of the familiar is really not a very helpful characterization. If we delve a little deeper we will find that love of one’s own is not really an irrational phenomenon with no relationship to the idea of the good. We come to love what is our own because we experience it as good – that is, as conducive of human flourishing. While this sort of affection does not involve a ‘detached’ and ‘objective’ weighing up of the objects good and bad qualities, it is not, strictly speaking, irrational. We do not love what is our own for no reason. I am suggesting that we can gain knowledge about the goodness of a thing through our experience of it. And that sort of knowledge should not be discounted as irrelevant, even though it is not obtained through the sort of argumentative process which Nussbaum envisions.
Thus, I have suggested that some of Nussbaum’s objections to patriotism stem from a misunderstanding or an insufficiently detailed examination of the phenomenon itself. Affection for one’s country and the pursuit of its interests does not necessarily rest upon a belief that one’s country is superior to all the others. One can judge that one’s country is on the whole a good one – that it performs its proper functions well and efficiently – without having any opinion one way or another about the qualities of other countries. In addition, this judgment of goodness need not entail a desire to dominate or destroy other countries. Certainly, patriotism has sometimes taken these forms – revolutionary France and Hitlerite Germany are just two examples – but believing that one’s country is good is not the same thing as believing that it has a manifest destiny to rule the world. These issues will be discussed in greater detail later, but for the moment it is enough, I think, to suggest that these concepts are at least theoretically separable.

Most of all, however, I would like to suggest that patriotism, even when it is not the result of a detached and reflective analysis of a country’s character, still bears some relationship to the good. One develops affection for one’s country by experiencing it as good – and good in a way that is concrete and particular. My country performs a particular role in my life and if it performs that role properly I will experience it as good in a way that is specific to me. In this way, I can gain knowledge of my country’s character even though I do not attempt to analyze it in a detached and objective manner. In this context it would not make sense to say that I should love another country more because it is better according to some objective standard. Another country cannot perform the same role in my life as my own country does. My affection for my country is, therefore, not without reason or somehow insensitive to its character.
2.2 “Purified Patriotism”

As we have seen, Nussbaum believes that all human beings have an affirmative duty to ensure that all other human beings have a threshold level of capabilities. Our duties towards others depend upon their needs and our ability to give. The distribution of resources should be based upon what every individual, in his or her particular circumstances, needs in order to achieve a threshold level of capabilities and live in a life in accord with human dignity. Our personal relationship with any individual is, strictly speaking, irrelevant to the distribution. Preferring our fellow countrymen in the distribution of burdens and benefits, what we have called patriotism, is, therefore, morally impermissible.

Nussbaum does recognize, however, that the attachments or affections which prompt us to prefer those with whom we have relationships are a very real part of human life. A life without passions, without attachments to particular things, would not be a recognizably human life. To attempt to extirpate all passion and emotion from one’s life would be to condemn oneself to “something like a death within life” A person with no passions, neither love nor hate, fear nor resentment, a person who has never struck out in anger or cried in despair would be a person who was not completely human. To be in a state of such complete stillness that one was never affected by the growth and change of things external to oneself would be to exist in state like death. This goal of the

138 “By getting rid of our erotic investments, not just in bodies, but in families, nations, sports teams – all this leads us into a strange world, a world that is gentle and unaggressive, but also strangely lonely and hollow. To unlearn the habits of the sports fan we must unlearn our erotic investments in the world, our attachments to our own team, our own love, our own children, our own life” (Nussbaum, “Compassion and Terror, 22).

139 Ibid.
extirpation of the passions, one which Nussbaum ascribes specifically to the Stoics, is one which she cannot recommend despite the obvious moral dangers associated with particular attachments.

Nussbaum also recognizes the power of the passions as motivators of action. Affection for and attachment to the people in our lives prompts us to act on their behalf. Without such attachments people’s motivation to act and to exert themselves will remain “watery.” As an example of this phenomenon Nussbaum points to the characters Tom and Louisa Gradgrind in Dickens’ novel *Hard Times*. In order to make them judicious and impartial their father brings them up to be free of any intense particular attachments. Rather than being “energetically impartial,” however, the Gradgrinds become “thoroughly listless, lacking in any motivational energy for good.” In the same way, Nussbaum clearly recognizes the power of a passionate attachment to one’s country. Nikhil, the protagonist of Rabindranath Tagore’s novel *The Home and the World*, is forced to tragically confront the truth of this proposition. According to Nussbaum, “in Tagore’s novel the appeal to world citizenship fails. It fails because patriotism is full of color and intensity and passion whereas cosmopolitanism seems to have a hard time gripping the imagination.”

In her most recent work, Nussbaum has attempted to take advantage of the emotional and motivational power of patriotism by constructing a defense of what she

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140 Nussbaum borrows this term from Aristotle’s critique of Plato in the Politics. Aristotle contends that the community of women and children suggested in the *Republic* will not be a success because without particular attachments to our own children we will not be sufficiently motivated to care for them well. Aristotle, *Politics*, trans. H. Rackham (Cambridge, Mass: Harvard University Press, 1998), 1262b15.


calls “purified patriotism.”

Purified patriotism, like constitutional patriotism which will be discussed in the next chapter, represents an attempt to combine some aspects of what MacIntyre calls “liberal morality” with traditional patriotism in order to construct a form of patriotism which is both useful and morally acceptable. Nussbaum begins her lecture with a discussion of the 1892 World’s Fair and the invention of the American pledge of allegiance. She contends that the invention of this familiar ritual of patriotism “soon proved a formula for both inclusion and exclusion” because it developed into a litmus test for what it means to be a good American.

For example, the Jehovah’s Witnesses were routinely persecuted for their refusal to recite the pledge of allegiance because they believed it was a form of idolatry. Nussbaum argues that patriotism is “Janus-faced” because in both encourages us to look outward from ourselves and make sacrifices for others, but it also encourages us to distinguish our group and our nationality from others. In her quest to provide all people with a threshold level of capabilities, Nussbaum approves of the fact that “national sentiment is also a way of making the mind bigger, calling it away from its immersion in greed and egoism toward a set of values connected to a decent common life and the need for sacrifices connected to that common

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143 Martha C. Nussbaum, “Can There Be a ‘Purified Patriotism?’ A Cosmopolitan Argument,” (lecture delivered at the University of Frankfurt, Germany, 6 December 2006). A version of this lecture was also delivered at the *Cosmopolitanism: Gender, Race, Class, and the Quest for Global Justice* conference at the University of Notre Dame, 28 September 2007.

144 It is clear from Nussbaum’s lecture that she is, to a certain extent familiar with constitutional patriotism and the critiques that have been leveled against it for being bloodless or, as MacIntyre puts it “emasculated” (MacIntyre, 46). For example in Part V of the lecture during her discussion of Lincoln’s Gettysburg Address she writes: “Lincoln’s speech does indeed contain appeals to a constitutional patriotism that would have pleased Rawls and Habermas. But it does much more: in its vivid invocation of the founding, its heartfelt mourning for the fallen soldiers, its appeal to renewed commitment, it puts historical and contemporary flesh on these moral bones.” It is possible that Nussbaum’s turn towards purified patriotism is a result of the increasing popularity of Habermas’ constitutional patriotism.

On the other hand, patriotism does not go far enough because it stops short of allowing us to see our duties towards all human beings.

Nussbaum’s argument for purified patriotism attempts to harness the anti-individualistic quality of traditional patriotism in order to serve the larger cosmopolitan goal of providing capabilities to all people in the world. Providing everyone with a threshold level of capabilities requires, according to Nussbaum, a great deal of sacrifice because it requires massive world-wide redistribution of resources. In order for people to be motivated to make these sacrifices, Nussbaum argues that there must be some sort of emotional attachment involved. She thinks that her notion of purified patriotism can provide the motivation necessary to bridge the gap between people’s particularistic mindsets and their universal duties in justice. She outlines the basic points of her argument as follows:  

0. “A decent global society must promote certain basic human goods or capabilities”

1. National sovereignty (at least for liberal democratic states) has an important role to play in the task of providing everyone with capabilities.

2. Nation-states “cannot remain stable without moral sentiments attached to their institutions and political culture”

3. Attachment to smaller units such as families or cities or ethnic groups is not sufficient for stability

4. Therefore nations should promote sentiments of “love and support” among their citizens.

5. These sentiments are even more necessary if a nation-state is going to engaged in projects which require great personal sacrifice on the part of citizens such as “substantial internal redistribution or copious foreign aid.”

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146 Ibid.

147 Ibid., Part II.
6. It is good for nations to engage in such projects.

7. “Therefore we have even stronger reasons for the cultivation of nation-directed moral sentiments.”

Here Nussbaum offers what she calls a “cosmopolitan argument for national sentiment” which is based upon the arguments of the Italian revolutionary and nationalist Giuseppe Mazzini. The argument begins from a cosmopolitan premise about the necessity of providing all human beings with capabilities and draws the conclusion that cosmopolitans therefore have a strong reason for supporting and promoting national sentiment.

Proposition 0 is one that is familiar to us from Nussbaum’s capabilities argument outlined in the previous chapter. I have already suggested how the standard of providing all human beings with a threshold level of capabilities leads to a variety of difficulties when one attempts to lay out the duties of justice in any specific manner. Proposition 1 maintains the importance of individual nation-states in providing for these capabilities. In defense of this proposition, Nussbaum offers a shorter version of the argument we have already seen for the continuing relevance of nation-states, i.e. nation-states are an expression of human autonomy and therefore should not be ignored or destroyed. I have already suggested that this argument does not give us sufficient grounds for defending the existence of nation-states which do not currently provide all of their citizens with a threshold level of capabilities. In this lecture, however, Nussbaum adds to her previous argument by contending that no other institution besides the nation-state can allow individuals to express their autonomy through political preferences. She rejects the idea that either a “large federation of nations such as the EU” or “smaller self-governing units within a federal state” can adequately fulfill this role. At this point in time, neither the
EU nor smaller units such as the states within the United States can provide the requisite protection of rights, access and accountability.\textsuperscript{148}

In response to Nussbaum’s arguments here I would still suggest that she has not given us any reason to respect the political preferences of people who do not exercise full freedom based upon their possession of a threshold level of capabilities. There can be and are many liberal democratic states that do not provide all of their citizens with a threshold level of all the capabilities on Nussbaum’s list. It is not consistent with her earlier arguments for her to prioritize political capabilities over other sorts of capabilities. Moreover, just because there are no currently existing international or sub national entities which can provide the requisite accountability and access does not mean seem to me to provide a sufficient reason for holding the existence of nation-states sacrosanct. It is certainly true that states cannot serve as an expression of individual’s political autonomy unless they are able to act in the world and form their policies without reference to some higher political authority. But there is no reason why such a state needs to contain one and only one nation. A federal state which extends across many cultures and nations and ethnicities would be able to serve this end just as well as a nation state. Encouraging people to be attached to nation-states rather than to multi-national states would seem to work against Nussbaum’s ultimate goal of creating a world-wide community of human beings which provides a threshold level of capabilities to everyone.

\textsuperscript{148} “The states within the United States do their job well, protecting their citizen’s life chances and basic rights and opportunities, only to the extent that they carry out the mandate of the nation’s Constitution. . . As for the EU, it certain [sic] has many defects of access and accountability at present. To the extent that these may ultimately be overcome, so that the voices of all citizens are clearly heard at the center, and to the extent that the constitutional guarantees become truly enforceable, truly protective of the equal opportunities and rights of all EU citizens I think this would mean that the EU has become a federal nation like the US and India and has lost the characteristics that make it a distinctive political entity” (Nussbaum, “Purified,” Part II).
When it comes to propositions 2 and 3, Nussbaum relies to some extent on John Rawls’ argument in *A Theory of Justice* that certain moral sentiments are necessary in order to support the stability of state. Nussbaum, however, argues that “the moral sentiments on which Rawls relies are a bit too transparently rationalistic to do the job he assigns to them.” Some people can be moved to love just institutions simply because they are just, but most people are “more easily able to conceive a strong attachment if these high principles are connected to a particular set of perceptions, memories and symbols.” In order to illustrate this point, Nussbaum uses the example of the Passover Seder in which children are brought to form an attachment to certain moral ideas such as “anger at injustice, love of freedom [and] compassion for subordinate peoples” through the specific stories, songs, games, and rituals involved in the Seder. Particular symbols and rituals are used to attach people to certain universal moral principles. Nussbaum admits that sometimes the people fail to move beyond the particularity of the ritual but “nonetheless we wouldn’t be wise to strip away the songs and the jokes, for in them the essence of the moral memory is situated.”

Thus, we can see that in her later work Nussbaum has come to appreciate the importance of rituals and symbols and the way in which emotional attachment can be a positive force for good. However, there are some problems with Nussbaum’s cosmopolitan argument for purified patriotism. First of all, I would not necessarily disagree with Nussbaum’s contention that emotional attachment to one’s nation-state is necessary in order for it to achieve stability; however, she does not really present a sufficient argument to support this point. She suggests that a state may be able to obtain

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149 Ibid.
stability in practice through other means but that “stability for the right reasons” must be based upon certain moral sentiments. One might suggest, however, that stability in a state can be obtained as long as people regard the government as legitimate and voluntarily comply with its demands and that this does not necessarily require an emotional attachment to the state. Sacrificing one’s life for the state might require an emotional attachment, but Nussbaum does not mention this issue because she is interested in separating patriotism from the idea of war and military conquest. Moreover, in order to be motivated to sacrifice one’s life in this way one would have to be attached to the state itself and not to some set of abstract principles. This brings us to my second objection to Nussbaum’s argument.

Nussbaum’s defense of patriotic sentiment and her comparison of patriotic rituals to the Jewish ritual of the Passover Seder seem to indicate that she sees the proper object of the patriot’s affection not as the nation or its practices themselves but rather as the important moral truths that underlie them. “The moral emotions of citizens” should be “fixed on the moral meaning of the political conception . . . but held to those meanings by rituals and narratives of a kind that must be more particular.”\(^{150}\) Purified patriotism should be encouraged by practices, rituals and tradition, but the object of the patriot’s affection is not those rituals themselves, but the deeper moral principles that they embody. As we shall see in more detail in our discussion of constitutional patriotism, attachment to moral principles is not sufficiently particular or specific enough to serve the same unifying purpose as traditional patriotism. To state the point briefly, if a citizen’s loyalty is to the principles of liberal government itself or to the basic tenets of

\(^{150}\) Ibid.
the capabilities theory, then their support should necessarily be directed towards whatever political community best embodies those principles through its policies and institutions. Needless to say, this will not necessarily be the political community of which the citizen is a member.

In addition, to anticipate an argument that will be made in the Chapter VI of this dissertation, love can be understood in two different ways. The first way, which we will call love of friendship, means that the lover desires and seeks to promote the good of the object of his or her affection. The second method of understanding love, which we will call love of desire, means that the lover desires to possess or to obtain some characteristic of the object of his or her affection and make it his or her own. To illustrate this difference we can imagine the difference between the way in which a woman loves her children vs. the way in which she loves her shoes. A woman loves her children because she desires to promote their good and to see them flourish. Her shoes, on the other hand, have no good independent of her use of them and she loves them because she desires to possess their beauty or their utility. Patriotism, as it is traditionally understood, involves love of the first type. The patriot desires to promote the good of his or her own country, a good which is independent of his or her own particular good. However, if the object of the patriot’s affection is a certain set of moral principles, then he or she can only love them in the sense of desiring to possess or actualize them because they have no good of their own. This second type of love, the love of desire, is essentially self-regarding. If Nussbaum wants to inspire citizens to sacrifice their

\[151\] See Chapter VI, pp. 286-289.
personal interests for the good of others, then it is love of friendship that she must encourage and this kind of love requires a concrete object with its own independent good.

One might argue, however, that the proper object of purified patriotism is not a set of abstract moral principles, but rather the particular instantiation of those principles in a specific political community by means of particular laws, institutional structures, traditions, and rituals or, perhaps, a particular group of people who work together to pursue those principles and make them manifest in the world. If either of these is the case, then a whole new set of problems are raised for Nussbaum’s theory. To state it briefly, Nussbaum would seem to be encouraging citizens to take seriously and allow into their moral deliberations distinctions of nationality and culture which her capabilities theory declares to be morally irrelevant. As we have seen, Nussbaum’s capabilities theory entails the belief that all human beings have a duty to see that all other human beings have a threshold level of capabilities no matter what country they live in. Special concern for one’s own family and neighbors is only allowed to the extent that it is the most efficient way of providing everyone with those capabilities. If, however, the proper object of purified patriotism is a particular group of people or a particular manifestation of the universal rules of justice, then it would seem to encourage a special concern for specific groups which extends well beyond the bounds of efficiency.

One cannot simultaneously encourage love for a particular group or a particular set of institutions and traditions while at the same time insisting that a citizen’s obligations towards that particular group or set of institutions and traditions is only derivative from a larger universal obligation. If the object of the purified patriot’s attachment is his own particular political community, then he will naturally be concerned
about doing justice towards his fellow citizens and preserving their common institutions before the citizens or institutions of other nations. Likewise, the purified patriot will desire to pursue the good of his own specific political community and fellow citizens and that good, because it is particularized, may often come into conflict with the goods of other political communities. To use MacIntyre’s example, what if there were a scarce number of material resources and the survival of my society could only be obtained at the cost of the destruction of another society? What is the purified patriot to do then? Or what if the preservation of my nation’s particular customs and traditions could only come about through barring outside influences or destroying other traditions and practices that are opposed to our own? If purified patriotism requires encouraging the patriot to endow moral importance to the continued existence of their own political communities, then Nussbaum is clearly encouraging an anti-cosmopolitan response to the above circumstances.

In Part III of her lecture, Nussbaum goes on to describe specifically what sort of sentiments need to be encouraged as part of a purified patriotism. She makes clear at the beginning of this part that these sentiments are encouraged by means of a purified national narrative. She contends that “any nation is, first and foremost, a narrative.”\(^{152}\) However, any national narrative is an interpretation of a country’s collective past. A purified national narrative should “select from the many versions of a nation’s history the one that makes best constructive sense against the background of the core moral commitments of a decent society.”\(^{153}\) We may assume, I think, that the “core moral

\(^{152}\) Nussbaum, “Purified,” Part III.

\(^{153}\) Ibid.
commitments of a decent society” are the basic principles of the Nussbaum’s capabilities theory. I would not here dispute the importance of a collective national narrative to patriotism, nor would I deny that every national narrative involves some level of interpretation. However, I would suggest that Nussbaum’s argument at this point opens itself to charges of ethnocentrism. America was founded on certain principles of liberty and equality for all people, and although it has often failed to live up to these principles, it is not, strictly speaking, burdened by a fundamentally illiberal past. The same cannot be said, however, of even most of the currently existing nation-states. How can a national narrative which interprets a nation’s past based on the principles of the capabilities theory have anything but contempt for the illiberal past of country like France, Great Britain or Germany? How are the traditions and rituals of these various countries to be respected or to encourage a patriotic attachment in their citizens when they come from a manifestly unjust past? In short, Nussbaum fails to consider the possibility that the history of a nation simply cannot be interpreted in terms of universal capabilities or the possibility that such an interpretation will encourage disgust rather than affection.

Nussbaum then goes on to describe the specific types of sentiments that should be encouraged by this purified national narrative. Following Herder, Nussbaum argues that these should include “a horror of war” and a “reduced respect for heroic glory.” In addition, citizens should be encouraged to have “contempt for aggression against other nations” and “dislike for internal hatred and group animosities” as well as “sentiments of pain when another nation is disparaged or treated badly; humane feelings about international trade relations . . . and finally, a love of useful activity on behalf of human
well-being, together with contempt for attempts to promote well-being through war."\textsuperscript{154}

In other words, people should be encouraged to love those behaviors and activities which promote universal capabilities and to hate those which work against that end. It would be as well to note at this point that there is nothing particularly patriotic about any of these sentiments, in the traditional sense of the word. Nor is there anything about these sentiments which is specific to any nation-state in particular. These sentiments represent an attachment to humanity in general, but they do not serve to provide stability to a particular country.

Nussbaum goes on to insist that “central to the stability of any society that asks people to make sacrifices will be the sentiment of compassion.”\textsuperscript{155} Compassion is an emotion that Nussbaum spends a great deal of time discussing in her earlier work, but she does not go into much detail about compassion in her 2006 lecture. Therefore, it will be as well to step aside for a moment from the argument for purified patriotism to examine her understanding of compassion and how it can be “moralized” and extended to all human beings.\textsuperscript{156} As has been mentioned in the first section of this chapter, Nussbaum understands emotions not as irrational movements of the soul but as cognitive evaluative judgments about objects or persons external to oneself.\textsuperscript{157} Nussbaum defines compassion generally as “a painful emotion occasioned by the awareness of another person’s undeserved suffering.”\textsuperscript{158} The emotion of compassion results from the confluence of

\textsuperscript{154} Ibid.

\textsuperscript{155} Ibid.

\textsuperscript{156} Ibid.

\textsuperscript{157} Nussbaum, \textit{Upheavals of Thought}, 22.

\textsuperscript{158} Ibid., 301.
three different evaluative judgments concerning another person’s suffering: first, that the suffering is serious in nature; second, that the suffering is underserved; and third, that the well-being of the sufferer is an essential part of my own happiness. This all-important third judgment, which Nussbaum calls the “eudaimonistic judgment,” is an essential component of all emotions in Nussbaum’s theory.\footnote{159}

Nussbaum does not believe that human beings are naturally egotistical; rather, from the beginning human beings manifest concern for people and things outside of themselves.\footnote{160} This concern for others does not naturally extend to all people, but we can be educated so that our beliefs and thus our emotions are brought into line with requirements of universal justice. With regard to the first judgment involved in compassion, the list of basic capabilities outlines what human beings needs in order to live fully human lives and therefore offers a guide for determining what sorts of deprivations or sufferings should be considered serious.\footnote{161} The question of desert is more complex, but there is strong reason to believe that Nussbaum thinks all human suffering

\footnote{159 It is important to note that in Nussbaum’s theory of the emotions the presence of certain evaluative judgments is a sufficient condition for the presence of the emotion. The emotion is essentially identical to the value judgment. Physical sensations sometimes accompany emotions but are not necessary to them. “We appear to have type-identities between emotions and judgments — or, to put it more elastically, looking ahead, between emotions and value-laden cognitive states. Emotions can be defined in terms of these evaluative recognitions alone, although we must recognize that some feelings of tumult or arousal will often accompany them, and sometimes feelings of a more type-specific kind, and although we must recall that they are at every point embodied” (Nussbaum, \textit{Upheavals of Thought}, 64).

\footnote{160 “But remember that my account of a child’s emotions, unlike many others, does not imagine that people are completely egotistic from the start. Infants have concern about items in the world, in some ways from the very beginning of life — in the wonder and curiosity that leads them outward to explore objects, in the sheer interest they have in examining a human face and interacting with that face, in their need for attachment, not entirely reducible to other, more egotistic needs. So for my account the problem is not how to plug other things and persons into a fundamentally egoistic system; it is, instead, how to broaden, educate and stabilize elements of concern that are already present — and in particular how to build a stable and truly ethical concern for persons, who are also objects of need and resentment and anger” (Nussbaum, \textit{Upheavals of Thought}, 337).

\footnote{161 See Nussbaum, \textit{Upheavals of Thought}, 418.}
is undeserved (or at least that the question of desert as we traditionally understand it is irrelevant to justice). She certainly indicates quite clearly that she believes all economic suffering to be undeserved.\textsuperscript{162} And moreover, she is quite clear that people are owed a threshold level of capabilities based upon their essential humanness not upon anything that they have or have not done in their lives.

Finally and most importantly there is the eudaimonistic judgment or the “judgment of the proper bounds of concern.”\textsuperscript{163} Nussbaum believes that all people should be part of our circle of concern. Specifically, she argues that we should have “equal respect and concern” for all of our fellow citizens no matter what their “race, sex, class or ethnic origin” and we should be concerned about “the fate of human beings outside [our] national boundaries.”\textsuperscript{164} To be clear about the scope of Nussbaum’s claim, we must recall exactly what the eudaimonistic judgment consists in. In order for us to have any emotion about a thing or person outside of ourselves we must believe that that person or thing is essential to our own happiness. In order to feel grief at the death of my mother I must believe that my mother’s well-being is tied up with my own. Therefore, when Nussbaum argues that we must broaden our circle of concern to include all human beings she is asking that we believe that well-being of all of our fellow humans is an essential component of our own well-being.

Thus, Nussbaum sees a great deal of potential in compassion, when properly educated, as a source of support and motivation for her ethical system. A proper

\textsuperscript{162} Nussbaum, \textit{Upheavals of Thought}, 420.

\textsuperscript{163} Ibid.

\textsuperscript{164} Ibid., 421.
understanding of compassion would extend it all human beings who are suffering from lack of a threshold level of capabilities. If our natural compassion is utilized properly then we will have an emotional response to the suffering of all people and be motivated to sacrifice some of our own goods and advantages to alleviate that suffering. In this way, Nussbaum’s capabilities theory will be able to rely less upon the coercive apparatus of the state and more upon people’s voluntary submission to its requirements. The motivating force of emotions will be harnessed in support of morally righteous behavior.

Let us turn, then, to examine this theory of compassion. We can approach this task by examining the three judgments which make up compassion, properly understood. First, Nussbaum believes that we should regard any situation in which a person has been deprived of a threshold level of capabilities as a serious injury worthy of our compassion. It is true that judgments of what constitutes serious suffering vary from person to person and culture to culture. However, in general I think we can say that such problems as not being allowed to vote, while we may consider them to be unjust; we do not regard them as an instance of serious suffering. Suffering seems to indicate a feeling of pain, either physical or mental, which we do not normally associate with deprivations of that sort. To ask us to alter our perceptions so much as to actively feel compassion for people who cannot vote or live in harmony with nature or whose way of life is not validated or respected by society seems to be asking rather a lot.

One wonders under what circumstances we would encounter a deprivation such as this in such a way that it would provoke compassion in us or motivate us to rectify the situation. Should we feel compassion when we see someone being turned away from the ballot box, for example, or having insufficient leisure time to play? Nussbaum does not
say whether falling below the threshold level on each of the capabilities constitutes an equally serious injury, but given her insistence on viewing the capabilities as a plurality of non-interchangeable goods such a conclusion is possible. If this is the case, then her view of compassion is even more at odds with our normal perceptions in which we generally believe injuries to bodily integrity or health for example to be more worthy of compassion than a deprivation of free speech.

When we come to the question of desert Nussbaum’s position takes us even farther afield. Nussbaum contends that compassion can only occur when we believe that the person who is the object of our compassion does not deserve the suffering that they are undergoing. If we believe that they are suffering a just punishment, then we do not feel compassion for them unless we feel that the suffering is out of proportion to the crime - “compassion then addresses itself to the non-blameworthy increment.”165 She does not explicitly say that she thinks all suffering is undeserved, but she is advocating that we feel compassion for all people everywhere who do not have a threshold level of capabilities. In order to do this, we clearly must believe that their suffering is undeserved.

Nussbaum has also shown herself to be rather impatient with the concept of desert throughout her explanation of the capabilities theory. People do not deserve the advantages they are born with, either in terms of being born into a wealthy nation or a loving family or even being born to a mother who gets prenatal care or to parents who are

165 Ibid., 311.
more intelligent than average.\textsuperscript{166} Advantages or disadvantages that people possess early in life go on to effect in a profound manner the way in which they will behave later in life – whether or not they will be poor or rich, whether they will commit crimes or be useful and productive members of society. Nussbaum believes that it is highly unfair that these undeserved inequalities should so profoundly affect our chances of living a fulfilled human life. We as a society should try to eliminate them as much as possible and when we cannot do so fully we must take these inequalities into account when distributing burdens and benefits to citizens. Our criminal justice system, for example, should take into account the extent to which criminals are often victims of their own lack of capabilities.

To a certain extent, of course, Nussbaum is perfectly correct to say that people do not in any meaningful way deserve the advantages they are born with or which they receive as a result of a superior upbringing. This does not mean, however, that we must jettison the concept of desert entirely. Actions still matter. The master piano player does not deserve his natural talent - this much is certainly true. This does not mean, however, that we should rob him of his trophies. In the competition he performed the best and therefore still deserves first place. To treat all deprivations of capabilities as if they are undeserved is, I would argue, to treat human beings as less than what they are – as

\textsuperscript{166} “The world contains inequalities that are morally alarming, and the gap between richer and poorer nations is widening. The chance event of being born in one nation rather than another persuasively determines the life chances of every child who is born” (Nussbaum, \textit{Frontiers of Justice}, 224). “Are individuals equal in life chances before birth? Surely not. Whatever account we give of the fetus we must say that by the time a human being is born, differences in maternal nutrition, health care, bodily integrity, and emotional well-being, not to mention HIV status, have already affected its life chances. The prenatal transmission of HIV affects staggering numbers of people in Africa today. For that matter, even getting the chance to be born is not a matter with respect to which there is rough equality: the alarming rise in sex-selective abortion in many developing (and some developed) countries means that females conceived in some parts of the world are grossly unequal in life chances both to boys in the same part of the world and to girls and boys in other parts of the world” (Ibid., 269).
passive victims of whatever fate throws at them. This is exactly the sort of attitude which Nussbaum’s theory is attempting to avoid. If we believe that people are able to choose, to assert control over their circumstances, then we must accept that some suffering and some happiness will be deserved and some will not. To allow that there is deserved suffering is to hold people accountable for their actions and this is why there should continue to be a recognition of this distinction enshrined within the law.

It is clear from what has been said above that in Nussbaum’s understanding of compassion most of the heavy lifting is done by the third judgment, the so-called eudaimonistic judgment. Key to the usefulness of compassion in support of a universal ethical theory is the expansion of our circle of concern to include all of humanity. So let us first turn to an examination of this particular move. The eudaimonistic component of compassion properly understood requires that we believe that the well-being of all people is a necessary component to our own well-being. When one pauses to consider this judgment it must seem an extraordinary one. One can easily imagine how the dictates of a comprehensive ethical system might require that I treat all human beings with equal concern, that I have the same duties towards everyone regardless of their relationship to me (although I have argued that this is, in fact, not the case). But what reason could I possibly have for believing that the well-being of every person on this earth is an essential part of my own well-being? I might believe that I must do my duty to help those in need regardless of whether I have any personal knowledge of them. But if someone half way around the world whom I have never met and have no relationship to is deprived of his or her basic capabilities, is there any reason to believe that this somehow affects my happiness? Absent any personal relationship or institutional
structure that relates us (and Nussbaum admits that such structures are essentially non-existent\(^{167}\)) how can their deprivation in any way affect me? Nussbaum seems to want people to believe in the truth of this eudaimonistic judgment as a matter of faith.

One might suggest that the eudaimonistic judgment is true because as human beings we are all similarly vulnerable to suffering. If the institution structures of the world and the personal behavior of its citizens allow a child to starve in the Sudan or a woman to be beaten by her husband in Saudi Arabia, then they might one day allow the same thing to happen to me. However, Nussbaum insists that such a judgment of similar vulnerabilities is not really what lies at the heart of compassion. If this were the case, for example, god could not feel compassion for human beings because he is not similarly vulnerable. She does concede, however, that the fact that we as human beings are all similarly vulnerable to suffering can be a useful tool in helping us to train and educate our compassionate instincts. “The judgment of similar possibilities is part of a construct that bridges the gap between [a person’s] existing goals and the eudaimonistic judgment that others (even distant others) are an important part of one’s own scheme of goals and projects, important as ends in their own right.”\(^{168}\)

\(^{167}\) “Our extremely uneven and unreliable compassion for people outside our national borders can be traced, in large part, to the absence of any effective institutional structure that would situate us together in a common form of life” (Nussbaum, *Upheavals of Thought*, 422).

\(^{168}\) Nussbaum, *Upheavals of Thought*, 320. Nussbaum explains this process in the following way: “Equipped with her general conception of human flourishing, the spectator looks at a world in which people suffer hunger, disability, disease, slavery, through no fault of their own. She believes that goods such as food, health, citizenship, freedom, do matter. And yet she acknowledges, as well, that it is uncertain whether she herself will remain among the safe and privileged ones to whom such goods are stably guaranteed. She acknowledges that the lot of the beggar might be (or become) her own. This leads her to turn her thoughts outward, asking about society’s general arrangement for the allocation of goods and resources. Given the uncertainty of life, she will be inclined, other things being equal, to want a society in which the lot of the worst off – of the poor, of people defeated in war, or women, of servants – is as good as it can be. Self-interest itself, via thought about shared vulnerabilities, promotes the selection of principles that raise society’s floor” (Ibid., 320-1).
world is suffering then I might also suffer in a similar way may help to foster compassion, but it is not the same thing as the eudaimonistic judgment. I can, according to Nussbaum’s theory, feel compassion for a person even if I absolutely know that there is no possibility of me suffering the same fate. I can feel this because I have judged that this person’s well-being is “a significant part of [my] own scheme of goals and projects.”

So we must return to our original question – why should I ever come to such a conclusion? It is easy to see why someone could come to such a conclusion about his or her mother or best friend or someone else with whom he or she has a continuing relationship. The suffering or deprivation of a friend or family member would cause me unhappiness and prevent them from fulfilling some essential role in my life. But the same cannot be said of some stranger with whom I have no relationship.

Finally, we must ask: does compassion really occur in the manner in which Nussbaum describes it? Nussbaum is very much concerned with the emotion of compassion in the abstract – how to encourage it among a group of people, how to build it into the structures of a society, the general nature of the judgments necessary in order to it to occur. Because of this the highly particularized nature of the phenomenon is often obscured. But let us imagine a particular example in order to see how Nussbaum’s vision of it plays out. Imagine that I am walking down the street and I encounter a homeless man who asks me for money. I have no relationship with this man beyond our encounter in the street but it is obvious to me that he is suffering. Now, Nussbaum maintains that I cannot feel compassion for this man unless I believe that his well-being is part of my

169 Ibid., 319.
own, that his suffering in some way diminishes the possibility that I will be able to flourish.

I would suggest, however, that this need not be the case. In my own experience I am certainly not aware of ever having made such a judgment when feeling compassion for a stranger nor do I believe in the truth of that judgment. Perhaps, the judgment exists on some level of which I am not aware – as Nussbaum maintains that it can – but, it seems rather unlikely to me. There is no obvious way in which the happiness of this homeless man would seem to fit into my own goals and schemes. The truth of the eudaimonistic judgment would seem to require that all suffering everywhere in some way diminishes us even if we are totally unaware of it. Alternatively, I would suggest that I do not have to believe that the homeless man’s happiness is somehow necessary to my own in order to feel compassion for his suffering. My compassion could simply be a reaction to the inherent evil of the situation – to the perception of human suffering. Whether or not I feel compassion in a certain situation will depend upon the extent to which I perceive the suffering and how intense I feel that it is. In this way I can feel compassion for an executed murder even though I think his fate is deserved because I recognize the intense suffering that he will undergo. In addition, according to this model I can feel compassion for a suffering animal even though there is no plausible way in which that animal’s flourishing can be seen as part of my own – even in the very general way that Nussbaum describes above.

Even if we were to assume that Nussbaum is correct about the truth of the eudaimonistic judgment and its role as an essential part of compassion, it does not appear that compassion can sustain the role which she envisions for it in support of her ethical
Even if one believes that the well-being of all people is an essential part of one’s own well-being, the emotion of compassion surely requires a particularized encounter in order to trigger it, so to speak. In order to feel compassion for the homeless man I must either encounter him physically or have his situation described to me in enough detail to make his suffering real to me. I may be able to judge in the abstract that all human beings should be part of my circle of concern but I cannot feel compassion in the abstract.\textsuperscript{170} In order to motivate me to act to alleviate another person’s suffering, I would have to have encountered that suffering in a highly specific manner and such encounters of necessity will always be haphazard and uneven – subject to the whims of fate, if you will.

Moreover, the intensity of the emotion will depend upon how important the person involved is to my own flourishing – how integral of a part that person plays in my life plan. Even if I were to come to believe in some way that the well-being of all people is a part of my own well-being, such a relationship will never be very close. People whom I do not encounter regularly, or even do not know at all, can never come to play as important a role in my life as my parents or friends or neighbors. My feelings of compassion towards them, according to Nussbaum’s own account, will always weak and diffuse.

Given these factors it is difficult to see how compassion can perform the essential motivating role which she lays out for it. Nussbaum has maintained that a system of

\textsuperscript{170} Nussbaum’s way of looking at emotions as essentially a series of judgments about the world makes this a difficult distinction to maintain. It is difficult to say that there is really a difference between feeling an emotion and making a judgment. Thus, as long as one possesses the requisite judgments for the emotion of compassion, then one is technically feeling the emotion all of the time. One is not, however, always conscious of feeling an emotion in this way. Nussbaum describes these types of emotions as “background emotions” and says that “only certain circumstances bring them to consciousness” (Upheavals of Thought, 70).
abstract moral principles needs to be supported by the emotion of compassion because of the problem of “watery motivation.”\textsuperscript{171} Without emotional attachments we will not be sufficiently motivated to obey the dictates of our ethical system. But as we have seen, even if people are educated to adopt a universal eudaimonistic principle, compassion still requires particular circumstances in order to act as a motivating factor. I may believe that I should feel compassion towards all people who suffer but I will only actively feel it towards those whom I actually encounter in my life. Moreover, because my relationships to these people are very slight I will not feel this emotion very strongly. As enfleshed human beings who exists in a particular time and a particular place we simply cannot, I would argue, feel compassion for all of our fellow human beings in an intense or sustained manner.

Nussbaum’s approach to the education of compassion may cause us to feel compassion towards some people we would not previously have felt it towards when we encounter them in a particular way in our lives – for example, the homeless man down the street or the starving child in Africa whom we see on the television. It cannot, however, act as a general motivating force to sustain the type of institutional arrangements that the capabilities approach requires. The construction and maintenance of the type of international and domestic institutions necessary to provide all human beings with a threshold level of capabilities would require rather large sacrifices on the part of people in more advanced nations. One may believe that the moral law requires such sacrifices in the name of people one has never met, but one cannot feel compassion toward such people in an abstract and general manner. And no institutional structure, no

\textsuperscript{171} Nussbaum, “Compassion and Terror,” 20.
matter how well-designed, can change the physical and particularized limitations of human compassion.

Having discussed in detail Nussbaum’s understanding of the sentiment of compassion and its inadequacy to the task of motivating great sacrifices on the part of individual citizens, we can now return to her 2006 lecture and make some final observations about the problems of purified patriotism. I have suggested that Nussbaum’s theory of purified patriotism is unclear about whether the proper object of the patriot’s affection is the moral principles of the capabilities theory themselves or some particular group of people who pursue some particular instantiation of those principles. I have further suggested that both of these options contain fundamental problems for Nussbaum’s theory, the former being too general to provide motivation for internal stability or great sacrifices of resources and the latter being too specific to be in accord with the capabilities theory as a whole. I went on to argue that there are serious problems associated with Nussbaum’s reliance upon the sentiment of compassion as an integral part of her understanding of purified patriotism.

Nussbaum ends her lecture with several examples of what she calls the rhetoric of purified patriotism, specifically the speeches and activities of Abraham Lincoln, Martin Luther King, Jr., and Mohandas K. Gandhi. These examples reveal some of the tensions that I have pointed out in her theory of purified patriotism. She begins by examining Lincoln’s Gettysburg Address and his Second Inaugural Address. She admires the way in which Lincoln invokes the general principles of liberty and equality on which America was founded by reference to the particular events of its past. He holds up the general principles upon which America was founded and uses them to critique its behavior and to
appeal to a better future. It is true that America, unlike many other nations, was founded on an idea, but it is perhaps worth pointing out that the principles of America’s founding do not go nearly so far as the requirements of Nussbaum’s capabilities theory. One cannot find within them the resources necessary to support the kind of equality that Nussbaum’s capabilities theory demands. Moreover, she argues that Lincoln’s *Second Inaugural* nurtures in its audience “a horror of war and a reluctance to make war.”\(^{172}\) While it is true that Lincoln was trying to encourage peace and healing in this speech, the very fact that he would not allow the South to secede from the Union without a fight meant that he was certainly not opposed to war as such and thought that there are some things that are worth fighting for. Lincoln was committed to the specific historical idea of the United States as one united country it is because of the specific nature of this commitment that he had to fight the Civil War.

Nussbaum’s analysis of Martin Luther King’s “I Have a Dream” speech reveals similar tensions. She emphasizes the universal moral principles which are at the root of King’s arguments. However, it is important to note that King’s appeal for the freedom of America’s black population is rooted specifically in the history and traditions of America itself. He argues that the specific promises made to African-Americans in the “Declaration of Independence” and the “Emancipation Proclamation” have not been fulfilled. He uses the image of a bad check which has come back marked “insufficient funds.” The argument is not that the United States has failed to offer its black population a basic level of some universal understanding of human rights, but rather that it has failed to provide its black citizens with the same rights and privileges as white citizens.

\(^{172}\) Nussbaum, “Purified,” Part V.
African-Americans are still “second class citizens” 100 years after the “Emancipation Proclamation” was issued. He asserts that blacks in the United States are not free because they are not allowed the basic privileges that whites have. They are not allowed to get a room at any hotel they would like; they suffer brutality and abuse at the hands of police officers rather than being served and protected by them; they are confined in their choice of where to live by the limits of segregated housing. In other words, the standard by which we can measure the freedom of African-Americans in the United States is a standard specific to a particular nation in a particular time. King, like Lincoln before him, uses a nation’s own specific understanding of the requirements of justice to critique its practices.

When it comes to Gandhi and India, Nussbaum acknowledges that the situation is somewhat different because it concerns the founding of a nation. “There are in that sense no canonical documents or traditions, no memories of long past struggles, that can command the agreement and the sentiments of all.” Gandhi set out to invent a common national narrative for India, one which would include both Muslims and Hindus. India is a nation that was artificially unified by British colonialism. At Gandhi’s time it had no common culture or common understanding of justice to unify it other than its

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173 “There are those who are asking the devotees of civil rights, ‘When will you be satisfied?’ We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality. We can never be satisfied, as long as our bodies, heavy with the fatigue of travel, cannot gain lodging in the motels of the highways and the hotels of the cities. We cannot be satisfied as long as the Negro’s basic mobility is from a smaller ghetto to a larger one. We can never be satisfied as long as our children are stripped of their selfhood and robbed of their dignity by signs stating "For Whites Only". We cannot be satisfied as long as a Negro in Mississippi cannot vote and a Negro in New York believes he has nothing for which to vote. No, no, we are not satisfied, and we will not be satisfied until justice rolls down like water and righteousness like a mighty stream” (Martin Luther King, Jr., “I have a Dream” speech, Washington, DC, 28 August 1968).

174 Nussbaum, “Purified,” Part V.
opposition to British rule. All nations go through a similar period and there is nothing inherently wrong with attempting to forge a new nation identity out of fragments from different peoples and culture. It is, however, a long and arduous road and, as Nussbaum acknowledges, not always entirely successful. Gandhi did not succeed in forging a new universally accepted identity for India that was separate from the idea of a Hindu nation. Hindu nationalism still plagues India and one might argue that the fateful decision in favor of partition forever foreclosed the possibility of a national identity in either India or Pakistan that moved beyond religion.

With India we can see a particularly striking example of the conflict that I mentioned above between the fundamental identity and self-understandings of two different nations. For all intents and purposes, the beginning of India marked the end of the British Empire. I am not saying that this was necessarily a bad thing; I am simply pointing out that the birth of India as a nation required a fundamental and profound alteration in the self-understanding and identity of Britain. For hundreds of years the identity of Britain and the British people had been bound up with their colonial activities. India’s entrance on to the world stage as an independent nation was simply incompatible with the continued existence of that self-understanding. This was not a consideration for Gandhi and his fellow India patriots and rightly so. But the loss of the Empire had a devastating effect on the British people and one might argue that they continue to suffer from an inability to define who they are and what they stand for without it.

All of this is meant to suggest that Nussbaum’s understanding of “purified patriotism” fails to confront or overcome the basic dilemma that MacIntyre presents. The patriot must take for granted and exempt from criticism the continued existence of the
“nation conceived as a project.” While all three of these patriots, Lincoln, King, and Gandhi, acknowledge the existence of certain universal moral claims, what they are primarily interested in is promoting a specific understanding of justice and applying that understanding within their own nations. The object of their affection appears to be their own “nation conceived as a project” and they thus consider the promotion of justice among their own people to be their first, if not their only duty. When the continued existence of their nation comes into conflict with that of another, as the continued existence of the Union came into conflict with the secession of the southern states or when the birth of India as a nation came into conflict with continued existence of the British Empire, they unhesitatingly chose the life of their own nation over any other. These are the positions of a patriot, but they cannot be reconciled with the claims of universal equality and universal duties which are at the heart of Nussbaum’s capabilities approach.

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175 MacIntyre, “Patriotism,” 52.
PART II

LIBERAL MORALITY AND THE CO-OPTING OF PATRIOTISM
CHAPTER 3: CONSTITUTIONAL PATRIOTISM

The argument of this dissertation began with Alasdair MacIntyre’s contention that “liberal morality” and the “morality of patriotism” are and must always be fundamentally opposed to one another. In the first two chapters, Martha Nussbaum’s capabilities approach has served as an example of this fundamental tension. In Nussbaum’s theory all human beings possess an equal right to the basic capabilities which are necessary for them to live flourishing human lives. This fundamental commitment to universal human rights stands at odds with a traditional understanding of patriotism which calls for allowing considerations of nationality and citizenship to play a role in deliberations about a just distribution of material and immaterial goods. As we have seen, however, in her most recent work Nussbaum has attempted to construct an understanding of patriotism which can be compatible with her normative theory of capabilities. Nussbaum delves into this arena because she sees a positive characteristic in patriotism that she wishes to harness, i.e. the motivating power of emotions and affections.

Nussbaum is not the only contemporary liberal theorist to recognize some positive aspects of patriotism and to attempt to incorporate it in some manner into her liberal theory. The most influential and well-known of these attempts is, perhaps, the theory of constitutional patriotism first formulated by the philosopher Jürgen Habermas. Constitutional patriotism attempts to make patriotism less morally problematic by
changing the object of the patriot’s attachment from a specific country with a specific national culture and traditions to the principles of constitutionalism themselves. Constitutional patriotism, as we shall see, has become particularly popular as a potential source of unity within political entities that have no shared national culture such as the European Union. In the following chapter I will attempt to examine the claims of constitutional patriotism to be able to combine the unifying power of traditional patriotism with the universalism and openness of liberal morality.

3.1 Habermas and the Origins of Constitutional Patriotism

The concept of constitutional patriotism, in its modern form, is one which is associated most prominently with the political theory of Jürgen Habermas. Habermas himself credits the invention of the term “constitutional patriotism” (or verfassungspatriotismus) to the German political scientist Dolf Sternberger, but it was Habermas’ reformulation of Sternberger’s ideas in support of his theory of deliberative democracy which brought the concept into vogue. Habermas first employed the concept of constitutional patriotism in the context of the “historians’ dispute” (Historikerstreit) which arose in West Germany in 1985 partially in response to an official visit from Pres. Ronald Reagan to that country. The historian’s dispute was carried on prominently in...

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177 Patchen Markell, “Making Affect Safe for Democracy? On Constitutional Patriotism,” Political Theory 28, no. 1 (Feb. 2000): 42. Markell identifies Reagan’s visit to West Germany in May 1985 as the triggering event for the historian’s dispute. Reagan was scheduled during his visit to lay a wreath at a Germany military cemetery in Bitburg, but controversy erupted when it was discovered that the cemetery contained the graves of several members of the SS and about 2,000 Wehrmact soldiers. A trip to the
the pages of several West German newspapers and attracted a great deal of public attention especially for its highly acrimonious tone. The dispute centered around the question of the historian should properly understand the crimes of the Nazi period especially the Holocaust. The historian Ernst Nolte wrote an article in the daily *Frankfurter Allgemeine Zeitung* on June 6, 1986 in which he argued that the Nazi death camps were an understandable defensive reaction to the danger posed by the Bolshevism and that it was Stalin with his purges and gulags who had first pursued a policy of genocide not the Nazis. Habermas responded in *Die Zeit* with an article blasting Nolte and his fellow revisionist historians for whitewashing German history in a misguided attempt to revive the very nationalism and patriotic fervor which led to Hitler’s rise in the first place. Habermas maintained that the only kind of patriotism that was safe, legitimate or even possible in post-World War II Germany was a constitutional patriotism.\(^{178}\)

From the time that he first took up the concept of constitutional patriotism Habermas has associated his understanding of it with his theory of the development of post-conventional and post-traditional identities.\(^{179}\) In his original understanding of

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\(^{178}\) Habermas’ article “Apologetic Tendencies” was first published in *Die Zeit*, on 11 July 1986. It and other of Habermas’ contributions to the historian’s dispute were collected and translated in *The New Conservatism* (1989). At the end of “Apologetic Tendencies” he praises the opening of West Germany to the influence of Western political culture in the post-war era. He concludes that “the only patriotism which does not alienate us from the West is a constitutional patriotism” (227).

\(^{179}\) At the end of “Apologetic Tendencies” just before he appeals to constitutional patriotism he says the following: “What is currently lamented as a ‘loss of history’ involves more than hiding something away and repressing it, more than a fixation on a past that is burdened and has therefore come to a standstill. If national symbols have lost their influence with the young, if naïve identification with one’s heritage has yielded to a more tentative relationship to history, if discontinuities are felt more strongly and continuities not celebrated at any price, if national pride and collective self-esteem are filtered through
constitutional patriotism Sternberger advocated a return to a pre-nationalist Aristotelian form of collective political identity as a solution to the question of how to maintain the solidarity necessary to protect German democratic institutions while at the same time avoiding the dangers of German nationalism. Habermas, on the other hand did not think that any such return was possible because of the fundamentally different way in which human beings form both their individual and collective identities in the modern world. Human beings no longer form their identities by accepting as given the roles assigned to them by political, social or religious conventions.

A post-conventional identity is constructed by the individual as he filters the demands of his society through the lens of both his own desires and the demands of an impartial and universalist morality. People simply no longer accept as unproblematic the received traditions of their political community and they demand that political rule be justified by more than simply an invocation of the past. The end of conventional identities “signals the end of all images of history that are closed or ordained by government historians.” Post-conventional identities require a post-traditional society – one which facilitates the continuous and ongoing process of identity formation. It is the processes and procedures of such a post-traditional society that the constitutional patriot is attached to, the procedures which allow him a voice in the public sphere and the freedom to question and construct his identity as he wishes. There are many ways in

universalist value orientations – to the extent to which all this is really the case, indications of the development of a post-conventional identity are increasing.” (227).


which these procedures can be realized and the unique traditions of a political community do not necessarily need to be done away with, they simply become part of the universe of options open to the individual in forming his self-understanding. “The abstract idea of the universalization of democracy and human rights forms the hard substance through which the rays of national tradition – the language, literature, and history of one’s own nation – are refracted.”

Thus, constitutional patriotism in Habermas’ understanding is fundamentally an attachment to certain principles and procedures, albeit principles which may will be realized concretely in a variety of different culturally specific forms. Habermas offers a type of patriotism which can unite the people of Germany without the danger of reliving their morally abhorrent nationalist past because the object of their attachment will be the very universal moral principles which lead them to condemn that past. Habermas originated this conception of constitutional patriotism in the context of post-World War II conventional identity to Kierkegaard’s view of the ethical life (as opposed to the aesthetic life) in his philosophical dialogue Enten/Eller. “Every individual first encounters himself as the historical product of contingent life circumstances, but in ‘choosing’ himself as this product he constitutes a self to which the rich concreteness of the life history in which he merely found himself is attributed as something for which he will account retrospectively.” It is only through choosing and constructing our own identities that we can become fully ethical beings. Reflecting on our life circumstances and choosing to embrace responsibility creates a distance between us and the conventions of our social and political world, a space in which there can be freedom. Habermas goes on to argue that when it comes to our social life we must ask “how intersubjectively shared life contexts must be structured in order not only to leave room for the development of exacting personal identities but also to support such processes of self-discovery.” Nationalism, he concludes, cannot support this form of post-conventional identity formation. “This form of consciousness [nationalism] develops a strong prejudicial force: that can be seen in the limiting case in which it actualizes itself in purest form – in the moment of mobilization for patriotic war. This situation of voluntarily falling in to line is the sheer opposite of the existential either/or with which Kierkegaard confronted the individual.” Constitutional patriotism, on the other hand, is compatible with it because “here identifications with one’s own forms of life and traditions are overlaid with a patriotism that has become more abstract, that now relates not to the concrete totality of a nation but rather to abstract procedures and principles,” Jürgen Habermas, “Historical Consciousness and Post-Traditional Identity: The Federal Republic’s Orientation to the West,” in The New Conservatism: Cultural Criticism and the Historian’s Debate, trans. and ed. Sherry Weber Nicholsen (Cambridge, Mass: MIT Press, 1989) 260-1.

182 Habermas, “Historical Consciousness,” 262.
Germany, but others have since taken it up especially as a means of supporting the ambitions of the European Union. One of these is Jan-Werner Müller who attempts to offer what he calls a “freestanding theory” of constitutional patriotism, one which is, in its essential provisions, free from both a historical connection with post-World War II Germany and a philosophical reliance upon Habermas’ theory of post-conventional identity.\(^{183}\)

Müller sees constitutional patriotism as an important resource for upholding and stabilizing liberal democratic regimes, but he suggests that Habermas’ understanding of it may be open to charges of “historicism.” The development of post-conventional identities and post-traditional societies is a result of the progress of history in Habermas’s view. Given the development of modern technology and the increasing globalization of our societies it is simply no longer possible for human beings to possess conventional identities in the way in which they once did. According to Müller many have attacked constitutional patriotism by taking issue with Habermas’ understanding of the progress of history and the nature of modern identity formation. Müller thinks that the concept of constitutional patriotism can be saved from such criticisms and attempts to articulate his own version of it, which does not rely on these potentially problematic connections. It is thus Müller’s own freestanding theory which will be examined here.\(^{184}\)


\(^{184}\) Müller describes the problem with Habermas’ constitutional patriotism thus: “Very often this apparent dilemma of democratic constitutionalism and patriotism pulling in different directions has been evaded by producing a quasi-teleological account of societies as already in the process of moving toward post national identities. Put rather crudely, history itself – in the form of modernization or rationalization of entire societies – is already carrying us onward and upward to a stage where the priority of values or polity is somehow no longer an issue. However, such teleological narratives or even ‘Kohlerian triumphalism’ – for which Habermas’ account of constitutional patriotism has often been faulted – cannot substitute for a genuine effort of moral self-clarification” (“General theory,” 74). My decision to use
3.2 Müller’s Constitutional Patriotism: What is it good for?

The theory of constitutional patriotism represents an attempt to articulate an understanding of patriotism which is compatible with the universalistic values of contemporary liberalism. Although most thinkers on the subject of patriotism recognize an inherent tension between the particular loyalty of the patriot and the demands of a universalistic ethnics, not all believe that the two are completely irreconcilable. For Müller and other advocates of constitutional patriotism the problem with the cosmopolitan approach is that it does not take into account the primary political good achieved by patriotism: social solidarity. In increasingly multicultural societies where so much emphasis is placed upon the virtues of difference societal fragmentation can represent a serious danger to the maintenance of stable political entities. For better or for worse we live in a world which contains many individual nation states rather than one world state, and even Nussbaum recognizes that this situation is likely to endure for some time. Political stability is necessary in order to allow individuals the freedom to pursue their particular life plans, and patriotism has long been exploited as a means of achieving that stability.

A certain amount of voluntary cooperation is necessary for any political society to function and remain stable in the long term. In a democracy where the people participate

Müller’s understanding of constitutional patriotism here rather than Habermas’ was born of a desire to focus specifically on the question of patriotism and its suitability to modern liberal democratic societies and to avoid getting bogged down in debates about the progress of history or post-conventional identities. In addition, Müller’s theory is clearly articulated in his book *Constitutional Patriotism* whereas Habermas’ approach is only revealed piecemeal in a variety of his political essays. As will be seen, however, there are shades of Habermas’ wider political theory throughout Müller’s theory of constitutional patriotism. These are especially apparent in the open-ended nature of the object of constitutional patriotism. This decision to explore Müller’s work here should not been seen, however, as either a rejection or an endorsement of Habermas’ notion of post-conventional identities.
in ruling the society such cooperation is even more essential. The people must come to a
certain amount of agreement on policy questions, and those who lose a political
disagreement must be willing to abide by the decision of the majority without resorting to
violence. Moreover, in a liberal democracy, as both Habermas and Nussbaum envision
it, enlightened self-interest or rational calculation alone is incapable of securing the type
of agreement necessary to support the requirements of the welfare state. Both Nussbaum
and Habermas understand justice to require some sort of redistribution of wealth and
 provision of basic services similar to the programs of contemporary Europe. Such
programs require a deal of sacrifice on the part of those who are better off, sacrifices
which cannot reasonably be construed to be in their interests as individuals.

All of these factors suggest the usefulness, if not the necessity, of some sort of
unifying sentiment among the various people of a country. If people believe that they
share something in common, something which transcends their various beliefs and
cultural practices, then the conflict inherent in political deliberation can be contained and,
to a certain extent, disarmed. If we see our fundamental commonalities – those that
persist despite our disagreements – our disputes will be less likely to degenerate into
violence. If we see ourselves as part of a group then it is easier to see how the interests of
others can become bound up with our own. Sacrificing to serve the interests of a group
of which I am a part can appear rational in a way that sacrificing to further the interests of
a chance met stranger cannot. Nussbaum believes that seeing ourselves as part of the
larger human group, the worldwide community, is sufficient to fulfill these needs. That
which we all share in common is our humanity and it is a belief in equal dignity of all
human beings which binds us together.
I have previously suggested that Nussbaum’s approach to this issue is inadequate. Her purified patriotism cannot secure attachment to currently existing political entities nor can it motivate an attachment to our fellow human beings in general that is sufficiently strong to secure her scheme of universal human rights. Müller and other defenders of constitutional patriotism have recognized that however cleanly cosmopolitanism may appear to fit together with universalistic liberal morality it tends to ignore some important realities of the human experience. Müller in particular worries about the lack of social solidarity present among the members of the most important supranational political entity of our time – the European Union. Borrowing terms from Michael Walzer, Müller argues that there is an increasing gap between the “legal” community of the European Union and the “moral” communities which still exist in its various member nation-states.\(^{185}\) Unless the people of Europe can grow to think of themselves as primarily Europeans rather than Spaniards or Germans, etc. the European experiment in supranational political cooperation will be doomed to failure. Something like a patriotic attachment to the Union itself must begin to take shape.

In addition, Müller sees several other potentially positive aspects of patriotism. First of all, Müller, following Habermas, believes that liberal governments are inherently fragile because they contain within them the seeds of their own destruction. Liberal governments, it can be argued, must secure the political rights of all of their citizens – allowing them all to participate in government through voting and serving in office regardless of their personal political views. This leaves liberal governments notoriously vulnerable to destruction from within because they cannot exclude even those who adhere

\(^{185}\) Müller, *Const. Pat.*, 2.
to political ideologies fundamentally opposed to liberalism. The most notorious example of this problem and one of particular concern to Habermas was the Weimar Republic. Many have argued that the very strongly democratic features of the German constitution put in place after the end of World War I, facilitated Hitler’s rise to power. Müller suggests that a patriotic attachment to one’s country can help to prevent the exploitation of democratic institutions by anti-democratic movements. The theory of constitutional patriotism was born in part out of a desire to provide a theoretical grounding for “militant democracy” which would be able to institute “strong checks on those hostile to its principles.”

Here again the idea is that an emotional attachment to a particular country, instead of a purely rational adherence to universal moral principles, can motivate people to defend their nation against those who would seek to fundamentally alter their way of life. Müller contends that the purpose of patriotism, rightly understood, must be “to enable and uphold a just constitutional regime.”

In addition, Müller draws attention to the fact that the problems of “nation-building” (for lack of a better term) are of particular concern to us at this junction in history. The end of colonialism and the end of the Cold War not to mention to current war in Iraq have created many new fledgling democracies containing diverse ethnic populations. The same discontinuity between “legal” and “moral” communities which plagues the European Union can be seen in the countries of the former Yugoslavia and in the newly democratic Iraq. These problems are exacerbated by the fact that these countries, unlike those in Europe, have no history of nation-statehood. Some form of

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187 Müller, Const. Pat., 58.
patriotism may offer these nations a method of achieving political stability which does not entrench or reinforce currently existing ethnic and religious differences. Finally, Müller, like Richard Rorty in his work *Achieving Our Country*, seems motivated by a desire to reclaim patriotism for the left. He maintains that “Many in the United States have been searching for a conception of patriotism that might give significant leeway for dissent or even civil disobedience; but just repeating over and over that ‘dissent is patriotic’ clearly isn’t enough.”188 Political liberals have often found themselves in the uncomfortable position of trying to maintain legitimacy within policy debates while at the same time rejecting much of the traditional symbolism, ritual and rhetoric of patriotism as chauvinistic. An understanding of patriotism which would allow liberals to sincerely lay claim to the title of patriot would be useful both rhetorically and personally for those who do not feel that they should have to choose between being a liberal and being a patriot.

On the other hand, Müller also clearly understands the dangers of traditional patriotism in much the same way as Nussbaum. Any discussion of patriotism and patriotic loyalty, he maintains, will necessarily call to mind the spectre of McCarthyism – of “political witch-hunts” and loyalty oaths.189 To the extent that patriotism is capable of unifying a people in their affection for or attachment to a common object, it generally leads to the enshrinement of a particular political narrative and a particular understanding of the appropriate behavior of the patriot. Feelings of attachment can only be judged by an analysis of external words and activities, and therefore the expectation that certain behaviors, such as criticizing one’s country’s policies or refusing to fight its wars, are

188 Ibid., 4.
189 Ibid., 66.
inherently unpatriotic naturally arises. The belief that one’s country and its institutions are morally good can easily slide into the belief that they are better than everyone else’s. This feeling of superiority in turn often manifests itself in open aggression towards other countries and peoples. In short, patriotism generally brings with it some form of exclusionary behavior, and exclusion, if not itself a form of injury, is almost always a prelude to one.

However, Müller does not believe that the moral problems often associated with patriotism necessitate a categorical rejection of it on the part of all liberals. Instead, Müller argues that what he, following Habermas, calls “constitutional patriotism” can be compatible with the fundamental principles of liberalism. Constitutional patriotism differs from traditional patriotism both in its understanding of the object of patriotic attachment and what Müller calls the “mode of attachment.” The constitutional patriot is attached not to a particular government or a particular cultural/ethnic group or nation but rather to a particular “constitutional culture.” This constitutional culture is specifically political in nature rather than ethnic and includes the institutions of government rather than any specific person or persons. Moreover, the mode of attachment involved in constitutional patriotism is essentially critical. The constitutional patriot is encouraged to turn a rational and critical eye upon his country’s behavior both past and present. The desired attitude is emphatically not, “my country, right or wrong.” Müller believes that with a proper understanding of both the object and mode of attachment constitutional patriotism “is capable of avoiding the ‘sources of moral danger’

190 Ibid., 47.
191 Ibid., 56.
associated with both liberal nationalism and traditional forms of patriotism.”

Constitutional patriotism can thus offer a source of sorely needed social solidarity without collapsing into chauvinism.

3.3 The Moral Foundation of Constitutional Patriotism

In order to understand how Müller hopes to achieve this balance between solidarity and inclusion and to evaluate whether or not he is successful we must begin with his understanding of the moral requirements that constitutional patriotism must meet. Müller maintains from the beginning that “constitutional patriotism is not itself a theory of justice” rather it must rely upon an independently established theory of justice. It is, in other words, “a normatively dependent concept.” Müller’s interest is primarily in defending his understanding of patriotism and he therefore does not offer a fully articulated theory of justice similar to Nussbaum’s capabilities theory. Instead he asserts what he considers to be the fundamental foundational principle of liberalism in general and suggests that his theory of constitutional patriotism can be compatible with a variety of different specific understandings of what this principle entails. The basic

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192 Ibid., 48.
193 Ibid., 50.
194 Müller does concede that it is possible to articulate a “purely positivist notion of constitutional patriotism” in which attachment to any stable constitutional culture or set of institutions would be justifiable. His understanding of constitutional patriotism however is normatively substantive and requires “a background theory of what renders political arrangements legitimate” (Ibid., 47). It is thus clear from the outset that constitutional patriotism will not be appropriate in all contexts and cannot ground an attachment to any and all political regimes.

195 See for example, Constitutional Patriotism p. 62, where Müller suggests that constitutional patriotism can be compatible both with a Kantian liberalism and a type which “stresses the importance of democracy for human dignity.”
premise is that all human beings are fundamentally free and equal simply by virtue of the fact that they are human beings. When we come together to form political societies, we must therefore recognize and respect that freedom and equality in every other person. At a minimum recognition of the equality of all human beings requires that certain basic political liberties be secured. This basic premise he and Nussbaum share – in common with other liberals. Differences begin to appear when we consider in more detail what the fundamental equality of all human beings entails for political and social life.

Nussbaum, for one, thinks that our equality as human beings means that we all have a right to be provided with a threshold level of capabilities in a variety of different areas of life. Without basic resources, both material and social, human beings cannot genuinely participate in politics or consent to be governed.

Müller, on the other hand, follows Habermas and Rawls in endorsing a proceduralist form of liberalism. He maintains that the equality of human beings requires that government can only be legitimate in so far as it can be justified to those who are subject to its laws. “However, the need for justification does not apply to every single law or measure; rather, the system of lawmaking in general – or the law of law-making – and the principles animating it have to be justifiable to all citizens.”196 In other words, only the essential features of the procedure for making laws rather than each and every one of the policies the government enacts have to be rationally acceptable to the people who live under them. Respect for other human beings as equals requires that we not simply coerce them but rather seek to persuade them. Müller also recognizes, however, that complete agreement on all policies is impractical. All that morality genuinely

196 Ibid., 53.
requires of us is a basic commitment to “find fair terms of political cooperation that [we] can justify to each other.” This fair terms of cooperation are embodied in the procedures of a particular constitution.

It is clear from the beginning that Müller thinks the fundamental liberal commitment to the equality of all human beings can be realized in a specific political context in a variety of different ways. The idea is that people living together must seek mutually acceptable procedures under which to live. This does not require that every group of people come to the same conclusions on this subject. Müller specifically sets up his own ideas in opposition to what he calls “monist cosmopolitanism” or “a cosmopolitanism that considers political boundaries morally irrelevant and assumes that all human beings stand in exactly the same moral-political relation to one another.” A universal commitment to human equality and freedom can take into account the existence of different groups within human society whom may have different methods of realizing that commitment. In other words, the fact that we are all human beings is not the only morally relevant fact about us. Müller maintains from the beginning that his theory of constitutional patriotism does not imagine the world to be a blank slate upon which any type of political organization can be erected. Rather, it takes “for granted existing bounded political space.” Muller does not believe that the foundational liberal principle requires either a world state or a total reorganization of existing political boundaries.

197 Ibid., 55.
198 Ibid., 69.
199 Ibid., 68.
Müller refers to this acceptance of existing political boundaries as “fairness in the face of achieved institutions.”\textsuperscript{200} He suggests that the acts of institutional design and development undertaken by a particular people must be afforded a certain amount of respect so long as they are reasonably democratic. No set of institutions can ever perfectly embody the normative ideal of liberalism and therefore a perfectly just government can never be achieved. However, the foundational liberal principle of equality should always serve as an ideal for the reform of existing institutions. Existing political orders may be imperfect but so long as they represent an attempt by a people to live together under fair terms of cooperation they will impose legitimate moral obligations upon the people who live under them. Such obligations cannot be wiped away in favor of a new system of political cooperation which brings together all human beings. In accepting that human beings have a past in which moral obligations have been incurred, Müller claims that his theory is able to avoid what he refers to as the “foundationalist fallacy.” This fallacy, which critics have often accused cosmopolitans like Nussbaum of committing, occurs when a theory suggests that human beings can come together ex nihilo and create a new society based on “pristine universalist values.”\textsuperscript{201} Thus, Müller’s constitutional patriotism recognizes that human beings can have many levels of moral obligation from family and friends to fellow citizens and fellow human beings. He “accepts the idea that bounded schemes of fair living together impose more stringent obligations than ‘the worldwide community of human beings.’”\textsuperscript{202}

\textsuperscript{200} Ibid., 70.
\textsuperscript{201} Ibid.
\textsuperscript{202} Ibid., 69.
Constitutional patriotism takes as given a moral universe which is already populated with personal relationships, political boundaries, and governmental institutions all of which are relevant to determining the nature and extent of our moral obligations. Because it accepts these state boundaries as given the theory of constitutional patriotism cannot offer resources to those looking to construct a justice based argument for the political self-determination of some cultural or ethnic group. At the same time, however, the liberal commitment to the inherent moral equality of all human beings and the subsequent requirement that government be rationally justifiable to those who are rule by it represents a principle that is universally valid for all people despite their varying political and cultural contexts. This commitment to a universal moral principle which lies at the heart of constitutional patriotism can serve as a model for reforming domestic institutions and as a means to “transnational norm-building” across political boundaries. Müller suggests that “the emergence of ever more complex political and moral ties across state borders” can take place “without these ties makes state borders superfluous or morally insignificant.”

Despite Müller’s insistence that the universal principles of liberalism and the contingent boundaries of the nation-state can be reconciled with one another one, does get the sense that he is not entirely comfortable with the ensuing compromise. The fact that Müller does not offer a complete theory of justice limits the opportunity for analysis on this front, but a few observations can be made. Müller accepts that political morality must be “multilayered” – i.e. allowing for multiple levels of moral obligation – but he does not indicate specifically whether he thinks that this is merely a practical concession

\[203\] Ibid., 68.
to the nature and limits of human emotions or whether this position can be rationally justified on the theoretical level. However, he does indicate that he considers working within the context of existing political boundaries to be a “weakness” of his theory albeit one which is shared by much of contemporary liberal thought.\textsuperscript{204} He describes his acceptance of existing political structures as “political realism” and suggests that it may be viewed as “defeatist” by proponents of universalism\textsuperscript{205}. While he clearly thinks that it is advantageous for his theory to be able to avoid such theoretical pitfalls as the “foundationalist fallacy” or the too-often ambiguous distinction between ethnic and civic nationalism, he seems to see his particularist concessions to be something along the lines of a necessary evil. There is some indication that he might see a cosmopolitanism such as Nussbaum’s to be the more natural and theoretically satisfying accompaniment to the fundamental liberal political principle.

Having established the foundational moral principles that underlie Müller’s theory of constitutional patriotism we can now discuss that theory in greater detail. Specifically, how does constitutional patriotism differ from traditional patriotism or from nationalism? And, moreover, how do these differences allow constitutional patriotism to be compatible with liberalism? According to Müller constitutional patriotism differs from both traditional patriotism and nationalism in terms of both its “object of attachment” and its “mode of attachment.” In other words, what is it exactly that the patriot is attached/loyal to and what is the precise nature of that attachment, in what particular behaviors does it

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\textsuperscript{204} Ibid. \\
\textsuperscript{205} Ibid., 70. \\
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manifest itself. It is in these terms that he sets about to explicate his theory of constitutional patriotism and accordingly we shall examine them both in turn.

3.4 The Object of Attachment

Patriotism has been traditionally understood as love for or attachment to one’s country. This is a rough definition of traditional patriotism which we have used before, one which, if asked, the average person would probably be inclined to supply. But when one sits down to give a more detailed theoretical account of what patriotism is and what behaviors it requires the question of what exactly is meant by “one’s country” inevitably arises. Is loyalty to a country embodied in obedience to its government? Does this mean particular government officials or the laws which structure governmental institutions? Is the patriot attached to some person (or group of persons) or to some idea of a common historical narrative? Must the patriot be attached to the leader of his country or his fellow citizens? Whose understanding or interpretation of the common historical narrative should be the authoritative one? In other words, what exactly is the object of the patriot’s attachment?

Martha Nussbaum never answers this question specifically, but I have suggested, based on the direction her arguments, that she understands patriotism, at least in its problematic aspects, to involve primarily an attachment to a particular group of people characterized by a tendency to prefer those people in the general distribution of burdens and benefits. This particular group of people is united through their citizenship in some currently existing political entity with recognized legal boundaries. In a like manner, nationalism, at least as Müller characterizes it, understands the object of attachment to be
a group of people and a common culture. The nation is a group of people who are united through common cultural practices, a shared history and usually a shared language, but who may or may not be united by participation in a common political entity. The obvious problem with these approaches from the perspective of a universalist liberalism is that there is no obvious way to justify the moral relevance of these types of groups. Certainly the formation of groups along the lines of some common feature such as language or geographical location is a common human tendency. But the liberal theory of justice is based upon a belief that all human beings are equal in a fundamental way despite their particular group affiliations. If group affiliations such as citizenship or national identity are allowed to trump this fundamental equality then violations of the rules of justice can easily occur. Acting to preserve national traditions or to promote the welfare of fellow citizens can often mean violating the equal rights of those who are not members of our particular group.

Müller tries to avoid this conflict between patriotism and liberalism by making the object of attachment in his theory of constitutional patriotism the fundamental principle of liberalism itself. According to his theory, “The object of attachment is not the (written or unwritten) constitution in all its concrete, historical specificity, as a positivist rendering of constitutional patriotism would have it. Rather, it is ultimately the very idea of citizen’s mutually justifying political rule to each other – and thus, in the end, the moral intuition that things should not just be done to people.”\textsuperscript{206} Thus the constitutional patriot is not attached to any person or group of persons, nor to a particular set of laws or cultural traditions. He is, rather, attached to the idea that all human beings are equal and

\textsuperscript{206} Ibid., 58, emphasis original.
that they must therefore seek to justify to each other the terms of political rule. Müller admits that this idea is “highly abstract” but insists that the constitutional patriot must hold fast to it “through thick and thin.”207 Because the object of attachment is the moral principle itself rather than the country or the nation as those have traditionally been understood, the conflicts mentioned above simply do not occur. The patriot’s loyalty is not to a political leader or even to a particular set of laws, so if that leader or those laws were to demand unjust actions, actions which violated the fundamental principle of liberalism, the patriot would not be obliged yield to such a demand.

The most obvious flaw in this technique is that Müller appears to have solved the problem of illiberal patriotism at the cost of endorsing something that is no longer recognizable as patriotism at all. The problem was, of course, the potential for conflict between the demands of some concrete institution or person and the requirements of principle. Replacing the institution or person with the principle will certainly eliminate the potential for conflict, but it also fundamentally alters the nature of the phenomenon we are considering. What we are left with is an attachment (as yet undefined in character) to the fundamentals of liberalism. However positive one might believe such an attachment to be it is not an attachment to any recognizable concrete political entity.

Moreover, one might say that one of the key features of patriotism is that one can only be patriotic towards a country that is in some way one’s own. One can have affection or admiration for other countries but such feelings would not be considered to be patriotic. Attachment to the principle of political equality, on the other hand, is in no way specific. If one’s primary attachment is to an idea of just political relations then this

207 Ibid., 55.
loyalty will necessarily transcend any particular manifestation of that idea. With regard to particular concrete political entities the constitutional patriot – at least according to this understanding – would owe his or her loyalty to whatever nation or state best embodied that idea. Moreover, assuming that perfect embodiment of the political principle is impossible, the patriot would always be working to improve that state, to bring it to a closer approximation of the principle. No feature of the state would be sacrosanct, no tradition so venerable that it could not be changed so long as such a change was meant to bring about conformity with the fundamental liberal political principle.

Müller does recognize the problem of lack of specificity in his general understanding of constitutional patriotism. He realizes that his theory must answer the question of why “should those committed to universal principles attach themselves to one polity rather than another?” before it can be considered to be patriotism per se. It is no good solving the conflict between liberalism and patriotism by defining patriotism out of existence. He maintains, however, that the “specificity requirement” can easily be met if “we enlarge the object of attachment” to include what he calls “constitutional culture.” Constitutional culture is a rather amorphous concept but one might say in general that a constitutional culture is a particular concrete manifestation of the foundational principle of liberalism, i.e. that all human beings are equal and should therefore work together to find fair terms of political cooperation. Müller refers to this principle, which constitutes the moral base of his theory, the “very idea of a constitution.” But the idea of a

208 Ibid., 47.
209 Ibid., 59.
210 Ibid., 54.
constitution can be manifested in a multitude of different concrete structures of laws and institutions. Moreover, a society’s particular method of pursuing fair terms of cooperation and what it conceives those terms to be is embodied not just in laws and institutions but also in “shared symbols and rituals of membership.” These too are part of what Müller understands as constitutional culture – the enlarged object of the constitutional patriot’s attachment.

A constitutional culture is thus a concrete and therefore particularized manifestation of the general principle of liberalism. Müller emphasizes that, although they do contain some of the same elements, a constitutional culture is not the same as a “nation” or a “national culture.” First, a nation is usually understood as a group of people who share certain common characteristics such as language, religions, and historical narrative. A constitutional culture on the other hand is a set of institutions and practices rather than a particular group of people. Moreover, the nation is conceived of as a pre-political cultural group whereas constitutional culture is essentially political. People who share a constitutional culture may share a common language, a common history and common traditions but only those common things which are explicitly political in nature are part of the constitutional culture. For example, in Great Britain political traditions such as acknowledging the Queen as the head of state and the Union Jack as the symbol of the country would be considered to be part of the constitutional culture whereas the celebration of Guy Fawkes Day or an admiration for Shakespeare would not be even though all of these traditions can be said to be a part of British culture in general.

211 Ibid., 56.
Müller also emphasizes that constitutional culture is never static. He specifically indicates that he uses the term “constitutional culture” as opposed to “constitutional identity” because the later suggests something that is fully formed and fixed in its present shape. This idea of fixity “tends to narrow the focus to an actual written document” instead of the practices, traditions, and narratives which are an essential part of any constitutional culture.\textsuperscript{212} Instead, Müller envisions constitutional culture as something which is in flux. There will always be disagreements within a constitutional culture, he maintains, over what should be included and what should be excluded, over the proper interpretation of the written document, over the utility or authenticity of a certain practice, in short, over what particular embodiment of the general principle of liberalism can properly be called \textit{ours}. These conflicts, however, can never and should never be eliminated. “Constitutional cultures are at least partly defined by the very nature of ongoing disagreements and deep-seated conflicts within the general constitutional settlement and yet characteristic forms of conflict and difference still refer to the same thing.” The very way in which these sorts of debates are carried out, “the styles of political claim-making and contestation” are also an essential part of the constitutional culture itself.\textsuperscript{213}

Not explicitly political factors such as diverse ethnic, national and historical contexts will certainly affect these debates and drive the development of new facets of a constitutional culture. But the universal principles of constitutionalism, the idea of human equality, will also have a similar effect. The essential principles of

\textsuperscript{212} Ibid.

\textsuperscript{213} Ibid., 57.
constitutionalism will always serve as an ideal against which any practice or tradition can be judged. Thus, no constitutional culture is ever complete – it is constantly being formed and reformed through a continuous “circular process” of debate and discussion “in which constitution, constitutional culture and a diverse and evolving set of cultural (including national) self-understandings in a more general sense come to influence and, ideally, to reinforce one another.”214

Thus, in order to allow for compatibility between liberalism and his theory of constitutional patriotism Müller first suggests that the proper “object of attachment” should be the foundational principle of liberalism. But in order to make sure that his theory meets the “requirement of specificity” he then goes on the suggest that the “object of attachment” be “enlarge[d]” to include what he calls “constitutional culture” and all its attendant trappings. 215 The immediate response to such a technique, however, must be to ask: which is it really? Is the proper object of attachment in constitutional patriotism the general principle or the particular instantiation of that principle known as a constitutional culture? Müller’s use of the term “enlarge” would seem to imply that he believes the object of affection can encompass both of these things. I would suggest, however, that this is not a position which can be consistently maintained.

The only way to achieve the specificity which Müller desires is to change or replace the object of attachment rather than to enlarge it, so to speak. The primary locus of the patriot’s loyalty must become, not the general principle of liberal government itself, but a particular instantiation of that principle in a particular constitutional culture.

214 Ibid., 59.
215 Ibid.
In this way the patriot can be attached specifically to his own constitutional culture rather than to whatever constitutional culture he rationally judges to be the best embodiment of the general political principle. What this would mean is that the patriot would be inclined to defend and uphold the particular features of his own constitutional culture regardless of whether or not they are, strictly speaking, the best. The traditions and practices of a particular constitutional culture would be, properly speaking, the object of the constitutional patriot’s attachment and therefore could be held sacrosanct and inviolate so long as they represented a genuine instantiation of the liberal political principle. But it is precisely this sort of “constitutional veneration,” which is so often associated with traditional patriotism, that Müller is seeking to avoid.216

Perhaps, the case does not have to be stated as starkly as it has been. We can imagine that there are in every constitutional culture certain features which are essential to it and certain features which are merely accidental. For instance, one might say that being a constitutional monarchy is an essential feature of Great Britain’s constitutional culture whereas Prime Minister’s Question Time is not. One might also say that there can be some features of a country’s constitutional culture which are clearly in violation of the fundamental principle of human equality even if the constitutional culture when considered as a whole can be seen as a genuine manifestation of that principle. For example, the hereditary upper house of the British legislature or the practice of the death penalty in the United States might be said to fit this criterion. In these cases or similar ones, attachment to a particular constitutional culture does not have to mean a complete preservation of all of its features. Features which are manifestly illiberal or which are not

216 Ibid., 82.
essential to the identity of a constitutional culture could be changed to bring them more in line with the general principle of liberal government. One might go even farther and say that there are certain improvements or methods of liberalizing (if you will) a constitutional culture that are more in keeping with the traditions of that particular culture than others. In general, attempting to reform institutions rather than doing away with them all together might be a more acceptable approach. This was the approach taken by Great Britain to the hereditary House of Lords, for example.

But even this compromise position cannot fulfill the demands that Müller makes of his constitutional patriotism. Müller insists that constitutional culture must be seen as an “ongoing project of realizing certain norms and values in an ever more perfect way.”\textsuperscript{217} The constitutional culture is never closed; it is never achieved; it is always in the process of becoming. Certainly we would agree with Müller that human things are of their nature changing things and that no culture, constitutional or otherwise, while it continues to exist can ever be static and closed off from change and outside influence. We would also agree that “a perfect match between normative aspirations and an actually existing constitutional culture” must always be impossible.\textsuperscript{218} But surely a constitutional culture that is completely and constantly open to revision cannot be said to be a \textit{particular} constitutional culture at all. If there is nothing about a constitutional culture that is fixed, nothing that persists through time, no feature that is essential then how can we say that there is such a thing as an American constitutional culture or a British constitutional culture or any other kind.

\textsuperscript{217} Ibid., 69.
\textsuperscript{218} Ibid., 76.
The question of the identity of a particular constitutional culture – as American, as British, as Chinese, etc. – is a complicated issue, but we can simplify it somewhat by means of a comparison to human identity. Over time we, as human beings, grow and change both in body and in mind. We learn discard old habits and learn new ones, change our appearance, change our opinions and everyday encounter new experiences. What is it then that gives our identities coherence and particularity? What enables us to say that the person who bought this computer five years ago is the same person who is sitting here typing on it today? Sometimes we speak as if our identities as particular human persons do not persist through time. We say quite easily, “I’m not the same person I was then.” But to speak this way is generally considered to be metaphorical, a way of expressing a change in behavior or temperament that is more extreme than most.

We certainly structure our social relations around the idea that particular identities persist over time. We hold people responsible for actions they have committed in the past both on a legal and a social level. Our interactions with each other are based on our belief that we exist through time as discrete individuals (whether or not such a belief is rationally warranted). In order for such a belief to be warranted there must be something which persists unchanging through time, something that links me as a I am today to me as I was five years ago. Some might say that it is the physical body which provides us with the necessary continuity, but scientists tell us that no cell in our body lives longer than seven years. Others might suggest that it is our memories which provide continuity across time. What then are we to make of the case of the amnesiac? Others might suggest that no matter how much we change in our habits or mannerisms over time there are certain core features of our personality and our self-understanding that do not change.
We need not resolve this complicated question in order to see how the analogy applies to the present case. If we recognize that political societies both come into existence and cease to exist (are born and then die), we must also acknowledge that there are some essential and unchanging features at the heart of every discrete political unit, features which constitute its particular identity. For example, the polis of ancient Athens, the political society in which Socrates and Plato lived, no longer exists. There is a city today that occupies the same physical space as the Athens of Plato and Socrates and many of its buildings still stand. Many creations of that society also remain, great works of art, literature and philosophy, but the constitutional culture of ancient Athens ceased to be long ago. Modern day Greece is not the same political entity as ancient Athens although they occupy some of the same physical space and, indeed, even though modern Greeks understand the narrative of ancient Athens as an important part of their own history.

When exactly the polis of Athens ceased to be is, perhaps, not a question that can be answered with any degree of certitude, but that it has ceased to be is undoubted. Modern Greece is a large multiethnic nation-state with a representative democratic government, whereas ancient Athens was a small city-state which was essentially a direct democracy with strict citizenship requirements. Certainly, over the course of its history the Athenian constitutional culture changed and developed in response to both the exigencies of experience and the demands of justice as articulated by its people. But there were some changes which it could not absorb and remain what it was, in this case absorption into first the Macedonian and then the Roman empires. We might say then
that when a political unit no longer possesses self-determination one constitutional culture has coming into being and another has ceased to be.

We might go even further and say that there are other features other than self-determination which are essential to the identity of a constitutional culture. When a one political entity is absorbed into the political life of another either by conquest – as is traditionally the most common method – or by some sort of voluntary accession, it is clear that a fundamental constitutional change has occurred. But presumably such changes in character should also be able to come from within a particular society. When a society chooses to profoundly alter its governmental structure through revolution, for example, a new constitutional culture might be said to come into existence. Can one really say that there is continuity between the constitutional culture of France before the revolution of 1789 and after it? The Jacobins specifically set out to destroy all vestiges of the ancien régime. In this end they clearly could not succeed, but the changes they did manage to bring about were extreme. A citizen of republican France would have understood himself and his role rather differently than a subject of Louis XIV. France before the revolution was a rather different place from France after the revolution. Was it a different nation? Who can say? Some aspects of French life clearly persisted through the revolution – enough for us to consider the story of the Sun King to be part of the same story as Robespierre. However, there was a fundamental alteration in the constitution and therefore, of necessity, in the constitutional culture.

The overall point of the preceding discussion is this: a particular constitutional culture is not infinitely malleable. A constitutional culture must contain some features which identify it as one among many possible variations, as British rather than French, as
ours rather than theirs. If it is a specific constitutional culture to which a constitutional patriot is attached, then it is those features which make up the essence of that specific constitutional culture which are properly speaking the object of his attachment. In other words, what he remains attached to through thick and thin is not the general principle of liberal government but a specific instantiation or manifestation of that principle. The essential features of specific constitutional culture cannot be altered without altering the nature of the object of the patriot’s attachment. He will, therefore, hold those features as sacrosanct, beyond the reach of alteration or argument.

A useful example would be attachment to a house. If I am attached to my childhood home, then I would not be willing to entertain a suggestion to pull down that home and build a new and better one on the same spot. All arguments or plans of improvement must likewise begin from the perspective of preserving the fundamental character of the house. Therefore, I would also not be willing to entertain a plan of improvement which gutted the entire internal structure of the house. An attachment to a house does not require that we leave it completely alone and preserve it intact through all time leaky pipes and all. But it does require that improvements be congruent with the specific character of the house. In other words, we do not begin with a blank slate and ask what the ideal features of a house are and then construct it. We begin, rather, with a house that is already intact and ask how do we both preserve and improve it. Given this approach, both to houses and constitutions, ‘this is the way we do things here’ will sometimes be an a perfectly acceptable attitude.219

219 Within debates over improvement, both of houses and constitutions, we need not accommodate or listen to those who would destroy the currently existing edifice and replace it with a new one. To defend any one essential feature of a constitution beyond saying ‘this is the way we do things here’ is not really
As the foregoing discussion illustrates, the basic problem with Müller’s understanding of the object of constitutional patriotism is the conflict between the general and the particular. He wants to overcome the chauvinism of traditional patriotism by making the object of the patriot’s affection into something that is constantly open to revision and adaptation, but the problem is that turning patriotism into a form of “permanent critique” robs it of its specificity. This conflict between the general liberal political principle, as Müller understands it, and the particular instantiation of that principle embodied in a specific constitutional culture presents itself in a variety of ways throughout Müller’s explanation and defense of constitutional patriotism. At times, when he wishes to emphasize the inclusive nature of constitutional patriotism, he appears to be arguing that it is the general principle of universal human equality that the patriot must be attached to. At other times, however, he seems willing to admit that the particular nature of a specific constitutional culture is the proper object.

possible, but we can defend the approach in general. First, we can say that there is no such thing as the ideal house or the ideal constitution, although we may be able to formulate a general principle regarding what functions they should perform. Depending on the lay of the land, both historically and physically, different instantiations of that general principle will be more or less appropriate. But this is by no means the only factor to consider. Houses and constitutions shape the people within them, our surroundings effect our expectations of the world. What I am used to in a house will effect what I think about how a house should be arranged because familiarity reduces the cost of doing business. Our expectations about the proper reach of government will affect how much freedom we perceive ourselves to possess. Our expectations are surely not the only relevant consideration, but they are relevant. Wholesale change towards some abstract understanding of the ideal does not take into account the way in which human beings are shaped by their experiences and their education. Our expectations alter, but they never alter completely. Respect for tradition may bind us to the past but in so doing it reflects an essential part of our nature as incarnate beings who exist through time.

Ibid.

This back and forth between a characterization of the object of constitutional patriotism as a set of principles and as a particular constitutional culture is apparent from the very beginning of Müller’s discussion. He declares that the object of constitutional patriotism is the “very idea of citizens mutually justifying political rule to each other” and then on the very next page declares the proper object to be the constitutional culture (Const. Pat., 58). When defending constitutional patriotism from the charge that it is a form of “statist nationalism” he emphasizes that constitutional patriotism is “not primarily tied to a state, but to political principles” (Ibid., 80). On the other hand, when defending constitutional patriotism against
The reason this distinction is important becomes obvious, as Müller seems to realize, when we are forced to consider questions of inclusion and exclusion. The whole purpose of constitutional patriotism was to support and uphold just constitutional regimes by promoting unity and social solidarity in otherwise very diverse societies. The question of the object of constitutional patriotism is ultimately the question of what people are unified around. The nature of that object will determine who is excluded and who is included in the group. If there is to be solidarity, there is simply no way of avoiding some sort of exclusion. The question is what type of exclusion will it be and how far will it extend.

Nationalism, for instance, involves a pre-political group into which a person is born rather than one which they elect to join. A nation is united by language, tradition, cultural practices and sometimes race and/or ethnicity. Liberalism tends to regard this sort of exclusion or inclusion on the basis of immutable characteristics to be inherently suspect, at least when it comes to questions of political justice. Constitutional patriotism can be considered an improvement over nationalism only to the extent that it moves beyond divisions of this sort. A group which is based on shared belief in the principles of liberal government is, at least in theory, potentially open to people of all racial or ethnic backgrounds. Thus, basing constitutional patriotism around an idea or intellectual principle rather than around some physical characteristic (such as place of birth) makes it possible for anyone to become a patriot by an act of free choice.

the charge that it is “bloodless” and overly rationalized he emphasizes the “symbolic contents of a constitutional culture” including a common narratives, traditions, and practices, which are able to evoke strong emotional responses in the constitutional patriot (Ibid.,62). Müller seems to be trying to have it both ways, emphasizing the particularity of constitutional culture to fend of complaints of the abstractness and lack of specificity in constitutional patriotism while at the same time emphasizing the its foundational liberal principle in order to disarm claims of chauvinism and moral danger.
However, as we have said, Müller does not want the unifying core of constitutional patriotism to remain entirely at the level of a general principle. There has to be something about patriotism which allows attachment to specific countries or it cannot properly be said to be patriotism. This is where constitutional culture comes into the picture. A shared history of engaging with, supporting and criticizing the practices and institutions of our common constitutional culture can lead to an affection for those practices. And yet, Müller argues, such an attachment need not be problematic. He argues “even universal principles are of course embodied in particular institutions and practices, and we can become attached to these institutions without thereby automatically turning into particularists.”222 This is certainly true, especially if one is referring to the technical philosophical meaning of the term particularist.

But what Müller fails to note is that by expanding the object of attachment beyond the general liberal principle he has consequently narrowed the inclusive potential of his concept. Any object which is a source of unity will also be a source of exclusion. A unity based upon the general principle of liberalism will necessarily exclude all those who reject that principle, in other words all those who believe in a natural hierarchy among human beings. But the only form of exclusion operative here would be one based upon a belief system.223 But if the object of the patriot’s attachment is, properly

222 Ibid., 65.

223 Müller, to his credit, concedes that even unity of this type is not, in itself, unproblematic. Unity based upon birth or culture allows for a great deal of diversity in political views. For example, an Englishman will always be an Englishman no matter whether he is a communist, an anarchist or a monarchist. His political opinions will never rob him of his Englishness. Whereas, one might argue that an American cannot be an American if he is not a democrat. If all that binds us together is our belief in the principles of liberal democracy, then we cannot allow any diversity among us on that score. Tolerance is always proportional to the end. A person who chooses to endorse aristocratic principles, therefore, has opted out of our political group no matter where he was born. This is the price we must pay for ability to
speaking, the shared constitutional culture made up of institutions and practices and traditions, etc., then unity becomes less a matter of belief and more a matter of shared history and experiences. Place of birth, physical environment and upbringing thus all enter into the equation. So long as Müller wishes to allow for particular attachment to specific political entities in his theory of patriotism, the issue of arbitrary factors such as place of birth will inevitably arise. This problem cannot be avoided by an occasional insistence that what lies at the heart of constitutional patriotism is *really* a principle. This problem can only be addressed by explaining why place of birth and shared historical experiences are not *really* arbitrary at all.

3.5 The Mode of Attachment

In addition to the object of the patriot’s attachment, Müller argues that it is important to consider the nature of that attachment itself. In other words it is important to consider the nature of the relationship between the subject (the patriot) and the object (the constitutional culture). This Müller refers to as the “mode of attachment.”²²⁴ Up until now we have spoken of this relationship as simply an attachment following Müller’s terminology, and it is perhaps odd to speak of an attachment as having “modes.” It is possible that Müller uses attachment to describe the relationship because patriotism has traditionally been understood as an affection or an emotion or a passion. But in order to save constitutional patriotism from the excesses often associated with traditional

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²²⁴ Ibid., 60.
patriotism it is important to outline the proper scope and nature of both the patriot’s feelings and the characteristics activities which accompany those feelings. Both of these ideas are contained in Müller’s notion of the “mode of attachment.”

As we have seen in our discussion of Nussbaum’s position much of the liberal objection to or suspicion of patriotism comes from the supposedly irrational nature of the attachment at the heart of it. Müller argues, however, that the mode of attachment associated with constitutional patriotism is not a blind love which leads one to equate all of one’s country’s actions with the good. On the contrary, the mode of attachment in constitutional patriotism is described as “reflective, critical or sometimes even ambivalent. Constitutional essentials and constitutional culture more widely are all viewed in a critical light, and are subject to periodic evaluation and re-evaluation in light of what citizens take to be universal norms.” Müller concedes that the practically speaking “polities cannot live in permanent states of self-questioning and ambiguity.” However, he does think that the “basic attitude” of the constitutional patriot towards politics should be one that recognizes the necessity of moments of “intense critical attention.”

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225 Ibid., 61.
226 Ibid.
Thus, the essential attitude of the constitutional patriot towards his country must be to adopt a critical stance. He must always consider how the practices, policies and institutions of his country can be made better in the light of universal moral principles. In this way, Müller avoids the accusation of patriotic irrationality. The constitutional patriot does not allow his attachment to his country to outweigh or overbear his duty to abide by the principles of justice. Indeed, he could not do so because it is those principles, Müller argues, which provide the very reason behind his attachment. As was mentioned above, Müller contends that his theory of constitutional patriotism is compatible with a variety of different versions of liberalism. Thus, depending on the specifics of one’s background moral theory the reasons for attachment will differ to a certain extent. In general, however, one may say that the reasons for a constitutional patriot’s attachment to his country may be found in his belief that people should “treat each other as free and equal in a common social space.”

The patriot’s loyalty to this fundamental principle compels him to an attachment to his constitutional culture in so far as that culture seeks to embody the principle in its practices and institutions.

Despite this emphasis on the rational basis and critical stance of constitutional patriotism, Müller insists that it is not too bloodless or abstract as some critics have charged. Although, he argues, “within constitutional patriotism as a form of attachment cognitive elements will predominate” this does not mean that the “attachment has to be entirely rational.” Many of the different aspects of a constitutional culture have the power to provoke an emotional response. The symbols and narratives that convey both a

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227 Ibid., 62.
228 Ibid.
country’s history and its ideals can often be powerful emotional triggers. However, Müller maintains, the emotions associated with constitutional patriotism will not be the same as the ones which we typically associate with traditional patriotism. As opposed to an unthinking pride in his country’s accomplishments, the constitutional patriot will be more likely to feel “shame, righteous indignation . . . spiritedness, anger and guilt.” Müller associates these emotions with constitutional patriotism because he, like Nussbaum, believes that most, if not all emotions, are based upon beliefs. What we believe about both the truths of morality and the facts on the ground (so to speak) will determine when we feel pride, anger, guilt, etc. Thus, if we believe that a political entity should serve to promote and protect the equality of all human beings and we look upon our own country’s efforts in this direction with habitually critical eye, then we will understandably react to its inevitable failures in this regard with anger, guilt, righteous indignation, etc. The constitutional patriot will not be able to have unmitigated pride in anything his country achieves or produces because such achievements will always fall short of the ideal.

Thus, although the constitutional patriot’s attachment to his constitutional culture is primarily motivated by his belief in universal moral norms, his attachment need not be entirely devoid of passion. The narratives and symbols of a constitutional culture will often evoke strong emotional responses. What constitutional patriotism cannot encompass, however, is the mindless national pride and hero-worship often associated with traditional patriotism. Müller maintains that “what is certainly not compatible with the picture of a complex post-traditional society, however, is the presence of

229 Ibid.
unquestioned pride and linear or homogeneous national narratives of heroes and victories.” In the “post-heroic” constitutional culture that Müller envisions the story of a country’s development and achievements must always be tempered by an acknowledgement of its failures. Uniformly positive stories of a heroic past, those which are designed to appeal to citizen’s emotions, instill loyalty in them, and mobilize them in support of patriotic causes are simply not compatible with the fundamentally reflective and critical stance of the constitutional patriot. Stories of the country’s founding and development must not become reified cultural myths, but must rather be constantly open to revision based on new experiences or contributions from previously marginalized groups.

In this vane, Müller devotes a good bit of time to refuting the suggestion that his theory of constitutional patriotism is just another form of civil religion. Some critics have suggested that constitutional patriotism involves simply taking the “concepts, dispositions and behaviors associated commonly with religion” and transferring them to various “political objects.” Attitudes of veneration and sacralization towards aspects of the constitutional culture are dangerous because they “might encourage the strategic manipulation of such constitutional symbols by political elites” in order to mobilize supporters and stifle dissent. Also, the veneration of what is one’s own can often lead to “a belief in the superiority of one’s own, even if such a shift is in no way conceptually necessary.” Here Müller makes a similar argument to one often employed by

230 Ibid., 63.
231 Ibid., 81.
232 Ibid., 82.
Nussbaum pointing to the empirical if not theoretical connection between belief that one’s own country is good and belief that others are inferior and deserving of contempt. Traditional patriotism, especially republican patriotism, has often been associated with a sort of “civic millennialism” or the belief that one’s people are a chosen people and that one’s country has some sort of grand cosmic destiny.

Müller acknowledges the dangers associated with this type of civil religion, but insists that an “orthodox” understanding of constitutional patriotism simply does not permit such attitudes towards one’s country. The fundamental attitude of the constitutional patriot, as we have said is one of critical reflection rather than worship or veneration. Strictly speaking, constitutional patriotism is not compatible with the sacralization of the constitutional culture or any of its features. Yet, one might argue that such reverential attitudes are part of a natural human tendency to endow politics with greater symbolism and meaning than it ought to have. Even if such attitudes are an inescapable human weakness, Müller argues that constitutional patriotism “carries within itself the resources to counter and correct the perils and problems associated with … civil religion.”233 Constitutional patriotism contains within itself the fundamental principles of human equality and justice and these principles will always push back against the human tendency to exclusion and “othering.” Müller concedes his theory cannot “guarantee that constitutional patriotism in practice will not turn illiberal and exclusionary.”234 However, it does entrench within the patriot the moral resources to resist exclusionary practices and in this sense presents a distinct advantage over various forms of nationalism.

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233 Ibid., 84.
234 Ibid., 85.
Thus, Müller argues that the mode of attachment in constitutional patriotism is different enough from that of traditional patriotism to render it safe for a liberal society. The constitutional patriot will not be inclined to let his attachment to his country outweigh the claims of his rational moral code because it his moral code that provides him with the reasons for his attachment in the first place. Even though “cognitive elements will predominate” in this attachment to a particular constitutional culture, it will not be entirely passionless. The successes and failures of a country to live up to the standards of universal justice will provoke emotional responses from the constitutional patriot as will the “symbolic” elements of a constitutional culture. The universal principles at the heart of constitutional patriotism will always force its adherents to look upon their particular constitutional culture with a critical eye, constantly looking for opportunities to improve it. The constitutional patriot will respect the institutions and practices of his constitutional culture but he will not venerate or worship them. Constitutional patriotism cannot be a patriotism of hero-worship and legends, for it is such simplistic views of history which lead to a belief in the inherent superiority of one’s own and the inferiority of the other.

So what are we to make of the mode of attachment associated with constitutional patriotism? Does Müller succeed in making constitutional patriotism safe and rational without making it passionless? To begin with we can certainly agree with Müller that there are times when it is not only permissible but obligatory for a patriot to be critical of his country and its constitutional culture. The portrait of patriotism as a blind and passionate devotion to a country and unquestioning loyalty to its leaders is one that has often been used by its critics, from Tolstoy and Emma Goldman to more contemporary
thinkers, because it is relatively easy to point out the morally problematic nature of such a position. I would suggest, however, that this portrayal is something of a straw man. Very few defenders of patriotism would, I think, argue that the patriot must never criticize his country’s institutions or policies or that he must always follow the dictates of its leaders. As Chesterton once famously declared, “‘My country, right or wrong’ is a thing that no patriot would think of saying, except in a desperate case. It is like saying, ‘My mother, drunk or sober.’” But straw man or not, this is not an understanding of patriotism which will be defended here.

There is a difference, however, between saying that it is appropriate for a patriot to sometimes criticize his country and saying that critique is the patriot’s primary mode of relating to his country or constitutional culture. One can love something and still be critical of it, but the disposition of the lover is not the same as that of the critic, and Müller’s constitutional patriot is a critic. Allow me to sketch out what exactly I mean here. First of all, it is important to note at the outset that the lover and the critic as I understand them here are both possessed of what we might call dispositions or attitudes. Although, emotions may play a role in the life of both the critic and the lover what I am seeking to describe here is not a passion or a particular emotional state. I understand both love and critique to be dispositions towards an object (in this case the constitutional culture), in other words, a tendency to view that object in a particular way. Whereas a disposition or an attitude is continuous, emotions are always fleeting. They arise in response to specific external stimuli and do not usually last very long. I do not mean to

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suggest that the critic will be without emotions or completely passionless, but his emotions will be somewhat different from those of the lover.

Thus, when I say that the disposition of Müller’s constitutional patriot is that of a critic, I mean that he has a tendency to view his constitutional culture in a certain way. When the constitutional patriot looks upon the different aspects of his constitutional culture, on the practices, policies, traditions, and institutional structures which constitute it, he looks for the ways in which it falls short of the ideal. The fundamental principle of liberalism – the idea that human dignity requires that we interact with one another through consent and persuasion rather than coercion – represents the ideal by which all existing political practices and institutions are judged. The constitutional patriot looks upon his country in order to see those ways in which its institutions fail to distribute equal justice to all, those ways in which various groups of people are denied access to the political process, those ways in which customs and traditions entrench a certain structure of power and privilege, those ways in which unequal educational and material resources systematically discriminate against certain citizens. To be sure, the constitutional patriot looks for these things, at least in part, in order to see where his constitutional culture might be improved. But no matter how much improvement is undertaken there will always be room for more, because the goal of justice is always unattainable. No constitutional culture will ever fully realize the liberal constitutional principle itself, and therefore the constitutional patriot is doomed to everlasting failure. The goal is only unattainable, however, because the standard of justice at work here is universal and abstract, rather than particular to the constitutional culture in question. It is only when
we understand justice as an attribute of specific acts in particular circumstances that we can see how to make room for both criticism and pride within patriotism.

When the critical constitutional patriot judges his constitutional culture to have fallen short of its foundational principles, this is not and cannot be a judgment about the constitutional culture as a whole. As we have said before, a constitutional culture, as Müller understands it, has no fixed content or character; it is constantly in flux. Having no essential features or characteristics, there is no way to make a judgment about it as a whole. The constitutional patriot can only consider the various facets of his constitutional culture as they present themselves to him at a certain time. He can see how the electoral system favors those with money and education or how the system for funding public education helps to create a cycle of poverty. He judges each aspect according to the universal ideal of justice and sees how it is wanting. Of the thing as a whole he can have no opinion; he can neither consider its essential character (for it has none) nor weigh up its good and bad feature in some sort of utilitarian calculus (because it is constantly in flux). He sees multifarious areas of failure all of which he must work to improve but with no hope of ever achieving complete success. For Müller, the constitutional patriot has a clear-sighted view of the object of his attachment, one which is not muddled by sentiment. The constitutional patriot is motivated by his moral convictions to attempt to improve the distribution of justice in his country, but he knows that it can never be achieved. Müller is suspicious of the pride that traditional patriots feel in their countries because he suspects that it cannot be based upon a true assessment the facts on the ground. Where is there room for unmitigated pride in the midst of such failures of justice?
The perspective of the lover, on the other hand, is quite different from that of the critic. Traditionally, patriotism has been understood as a type of love, i.e. love of one’s country. Love can be described as a disposition to desire what is best for the object of one’s affection and to attempt to promote its flourishing. The person who loves his country looks at it as something which is on the whole good but which can also be improved by his actions and the actions of others. Love can encompass a clear headed assessment of its objects failings, indeed, it must do so or it would not be able to bring about improvement. But it can also encompass pride in its objects achievement and joy in its flourishing. It can do this because the lover sees his object as a whole which is a particular manifestation of a type and therefore the standard that he uses to judge its achievements and failures is a specific rather than a universal one. Consider the example of a mother who loves her daughter. The mother desires to see her daughter flourish, but the question is: flourish according to what standard? The daughter is a human being and therefore we may be able to identify some general notion of what flourishing means for the daughter based on our understanding of how human beings, in general, flourish. In this sense, the mother will surely desire that her daughter live because that is the *sine qua non* of all human flourishing. The mother will also want her daughter to have food and shelter, perhaps also some education, some leisure time, some exposure to the arts or even to religion.

We have here outlined some of what it might mean for the daughter to flourish in as much as she is a human being. But having said this, we have still not said very much about what it means for *her* to flourish as a specific person (named Casey, for instance), and thus we have still not said very much about how Casey can improve or what would
constitute an act of love on the part of her mother. To know what constitutes an achievement or failure on her part, to know what she can do in order to help Casey flourish, her mother must know more about her than simply that she is a human being. She must know Casey’s context, her capabilities, and her narrative in addition to having an understanding of general human flourishing. For example, the mother may know that the life of the mind in an important part of human flourishing, but this does not mean that she will judge her daughter a failure because she has not become a great philosopher or a great artist (when judged by some universal standard). There are many ways of developing the mind, and if she wants Casey to improve in this area she must recommend some method which is in accord with her talents, her tastes, and her abilities. Those tastes, talents and abilities may change somewhat over the course of her life and her mother may be able to shape some of that change, but they are not infinitely mutable. Those things are the givens which any word of criticism or plan of improvement must take into account. Likewise, any pride that her mother feels in Casey’s accomplishments will be based not upon an abstract notion of the ideal of human flourishing but on a particular instantiation of that ideal as it applies to her daughter. Her mother will take into account the intrinsic value of the act, her effort, her intentions, her goals, etc. Casey, as a particular person with a particular context and narrative, can only flourish in a particular fashion and her mother can only love her in a particular way.

Thus, if one genuinely loves an object then one’s attitude towards it will neither uniformly negative nor uniformly positive. Certainly, criticism of the object of one’s affection is a necessary part of helping it to flourish. I cannot help my daughter to become a better person unless I am realistic about her shortcomings. But it is important
here to be clear about two things. First, my criticism of her is motivated by my love for her and my genuine desire to see her improve rather than a desire to destroy her. Secondly, being realistic about my daughter's shortcomings means taking into account her specific circumstances, what she is capable of achieving, the external circumstances of her life, as well as her tastes and desires. When such circumstances are taken into account genuine and unmitigated pride in her achievements also becomes possible. My daughter will never conform to some ideal of the perfect human being, even if we could say with any specificity what such an ideal might be, but she can do good at specific moments within the particular context of her life, and the appropriate response to such moments is for me to feel pride.

Now, the love of the traditional patriot for his country is not precisely the same as the love of a mother for her child, but the analogy is useful. The patriot desires to improve the object of his affection and as such must be capable of seeing its failures. But a genuinely clear-sighted view of one’s country means judging it not just in comparison to some abstract ideal of justice but within its own particular context. When we consider that our government has committed an injustice, we must always inquire into the circumstances. What are the existing options? What are the possible consequences of different plans of action? What are the limits to its ability to act? The terms justice and injustice apply first of all to actions and actions occur in the particular not in the abstract. If one were to argue for example that our two party system is unjust because it forces citizens to compromise and choose representatives who do not really reflect their views, one would also have to take into account the possible alternative systems and their failings. The law cannot right every wrong and attempting to make it do so can often
lead to more harm. A country cannot be perfect, but it can do good and thus can inspire feelings of appreciation and pride.

In addition to the things we have already mentioned, there is another important difference between the love of the traditional patriot and the critical mode of the constitutional patriot. As was mentioned above, Müller has argued that the reason for the constitutional patriot’s attachment to his particular constitutional culture is provided by his endorsement of the fundamental principle of human equality and commitment to the goal of living together under fair terms of cooperation. In other words, the constitutional patriot’s attachment to the traditions, practices and institutions of his country is a consequence of his rational commitment to a certain set of moral principles. The constitutional patriot is committed to supporting and upholding his constitutional culture because it attempts to embody the universal principles of justice in its institutions and practices and, we would assume, succeeds at least to some extent. The attachment of the constitutional patriot to his constitutional culture is consequent upon a previously existing commitment to certain rational moral principles. This understanding of the reasons underlying the patriotic attachment raises again the problem of specificity. As we have previously argued, a person committed to this reasoning would also be committed to supporting whatever constitutional culture best embodied the fundamental moral principles. Moreover, the constitutional patriot’s commitment would be contingent upon his constitutional culture continuing (in his estimation) to pursue the principles in question.236

236 In addition, it is difficult to see how the constitutional patriot could make such an assessment given the nature of the constitutional culture as Müller understands it. As we have said, the constitutional patriot does not and cannot see his constitutional culture as a whole with a specific character. It is
On the other hand, although the love of the traditional patriot is not absolute by any means, its conditionality is not quite the same as that of the constitutional patriot. We will return to this subject in more detail in the final chapter, however, we can briefly sketch the distinction here. The love of the traditional patriot for his country, like the love of a child for its mother, is not based upon some sort of detached assessment of its goodness. The traditional patriot does not weigh up the good and bad features of his country in order to try to decide whether he should work for its improvement or work for its destruction or disassociate himself from it entirely. He would regard such attempt, besides being futile, to be entirely inappropriate to the nature of his relationship to his country. On the other hand, his love for his country is not simply a result of the fact that it belongs to him. The traditional patriot’s love for his country, like the love of a child for its mother, comes about as a result of experiencing it as good, as performing well the role which it plays in his life. If a mother performs the role that she is supposed to have in her child’s life and performs it well, caring for the child, nurturing it, educating it, disciplining it in the appropriate moments, then the child will develop and affection for the mother. However, if the mother is absent or abusive or neglectful, then this affection will not develop or will be rather limited. In a like manner, simply being born into a country is not enough for the development of a patriotic disposition. If a citizen continuously in flux and it does not appear to contain any principles or features which are essential or which constitute its essential nature. It is hard to know what the constitutional patriot should look at in order to decide if the constitutional culture in question is worthy of his continued support and attachment. There is no narrative which he can construct about his country which can lay claim to being in any way definitive. Different citizens with different experiences and beliefs could, quite legitimately, construct competing narratives which would in turn lead one citizen to endorse constitutional patriotism and another to reject it. The different aspects of a constitutional culture will always fall short of achieving justice and there is nothing to tell us how much of this sort of failure the constitutional patriot should tolerate. Perhaps, it is only the intention to live together on mutually acceptable terms that matters, but, if so, whose intentions should one examine? If everyone is left to make these determinations on their own, it is unclear how useful constitutional patriotism will be at creating social solidarity.
experiences his country as bad, as tyrannical or neglectful, then a citizen will not become a patriot. Moreover, if the experience is particularly bad then it may be appropriate for a citizen to either leave his country or attempt to destroy it, but this position is the exception rather than the rule.

Thus, it is easy to see the distinction between the critical disposition of Müller’s constitutional patriot and the loving disposition of the traditional patriot. The critical constitutional patriot looks upon the various and constantly changing features of his constitutional culture and sees all the ways in which they fail to live up to the universal standard of liberal justice. Any inclination that he has to feel pride in his constitutional culture must always be mitigated by his knowledge of its failures. He must always be on the lookout, guarding against the natural human tendency to see only the good in those things which are his own. This almost uniformly critical disposition is a result of the highly generalized standard of justice by which the constitutional patriot judges the various aspects of his constitutional culture. The traditional patriot, on the other hand, looks on his country as sees both failures and successes, because his standards are more specific to the particular nature of his country and the particular context in which it acts. The traditional patriot recognizes that justice is, first and foremost, a quality of particular acts and therefore must be take cognizance of specific circumstances, context, motivation, intentionality, available options, etc. It is only when all of these factors are taken into account that the true success and failures of a country and its people become apparent. I would suggest, moreover, that it is the traditional patriot who is more likely to be able to see the object of his affection in an unbiased and clear-sighted manner and hence is best positioned to bring about its improvement and flourishing.
I have suggested that the kind of critical attachment which Müller advocates as the proper disposition of the constitutional patriot does not and, perhaps, cannot yield a legitimate assessment of a constitutional culture. However, even if one does not find this argument compelling there are still a number of potentially problematic aspects of the critical mode of attachment. Our first step in pointing out these problems would clearly be to suggest, as we have done above, that the attachment of the constitutional patriot bears little resemblance to phenomenon of patriotism as we encounter it in our everyday lives. People do not generally make a conscious decision to adopt a patriotic attitude towards their country based on the requirements of morality. This attachment is to a particular political entity is based upon past experiences and the way in which those experiences have shaped and educated the person in question. As such, different political entities are not interchangeable when it comes to patriotism; you cannot be patriotic towards a country that is not one’s own. Love, unlike criticism or even loyalty, has to be directed towards a particular object with a good of its own, which can be pursued by the lover. You can be loyal to an abstract principle, conform your will to its dictates, but you cannot love it because it does not have a good of its own. Müller himself recognizes the “specificity” requirement as an integral part of patriotism; however, despite his efforts in this regard his constitutional patriotism seems constantly to be sliding towards the abstract.

Secondly, as we said in the beginning, an important part of the impetus to formulate a concept like constitutional patriotism comes from the desire to harness the power of traditional patriotism in service of liberal justice. However, it is unclear that the concept of constitutional patriotism as Müller understands it can really yield any such
power. The elusive social solidarity which is so important in our fragmented multicultural societies is provided by precisely those aspects of traditional patriotism which Müller finds most troubling. Müller argues that his constitutional patriotism is “post-heroic” and that it has no place for “linear or homogeneous national narratives of heroes or victories.”237 Leaving aside the question of what a non-linear narrative would look like, it is clear that Müller does not want a patriotism that contains hero-worship and triumphalist narratives of national superiority.

Perhaps Müller is correct to eschew triumphalism but patriotism does require a common narrative of some sort and shared symbols of national ideals. Political solidarity is not quite as simple a thing as familial solidarity because our shared political entity is not something that we encounter directly in our day-to-day lives. It must be made present to us from childhood in the form of a narrative of our common history and the symbols that represent our common political life. Such narratives must be linear, in the sense of having a beginning and moving forward through time. And, although they need not be triumphalist, they do have to be more than simply a concatenation of failures and a catalog of mistakes. Heroes are also very important, although we need not look at them in the same way when we are adults as we do when we are children. Heroes serve as particularized and concrete manifestations of the general values which we as a society pursue. Thomas Jefferson, George Washington and Abraham Lincoln all pursued a justice which is recognizable well beyond the boundaries of the United States, but their lives serve to show the best that our particular political life can create. Moreover, their actions illustrate what justice looks like in the particular context of the United States.

237 Müller, Const. Pat., 63.
Narratives and symbols like these remind us of and represent to us the common political life that we share and as such serve as tools for social integration. Patriotism without these things loses much of its unifying power.

Müller himself acknowledges that his concept of constitutional patriotism “cannot by itself generate large degrees of social solidarity.” He maintains instead that “social solidarity will depend on how strong an interpretation of the underlying idea of fairness can take hold in a particular political culture.” This is certainly a rather surprising admission given that both Habermas’ invention of constitutional patriotism and Müller’s refinement of the concept are clearly motivated by a desire to find a way of uniting people with disparate backgrounds and belief systems. However, one can see why Müller must concede this point. In order to reconcile liberalism and patriotism he has to turn liberalism into the foundation of patriotism. The constitutional patriot loves his country because it is a particular concrete manifestation of the general principle of universal human equality. The constitutional patriot must have a prior commitment to the underlying moral system in order to be motivated to serve his country. The reverse cannot be true. Therefore, unless the people of a country all ready possess this commitment constitutional patriotism cannot do much to bring them together. Once people are committed to a belief in universal human equality and the understanding of justice that flows from it, constitutional patriotism can serve to unite around a particular constitutional culture in so far as it embodies those principles. However, this commitment would only be provisional for the reasons that we have already discussed.

238 Ibid., 48.
Finally, when it comes to the paradigmatic act of patriotism – sacrificing oneself for one’s country or fellow citizens – constitutional patriotism falls far short of providing the necessary motivation. Müller recognizes that a well-functioning society often requires personal sacrifice on the part of some of its citizens. However, he thinks of this sacrifice primarily in terms of economic issues. When comparing nationalism unfavorably to constitutional patriotism, Müller insists that the economic sacrifices necessary in order to support the welfare state do not require ethnic or cultural sameness in order to motivate them. Social trust is necessary for the welfare state because “for welfare provision to work one needs some reassurance that those who are supposed to give and those entitled to claim comply with the laws.”\(^{239}\) This social trust, however, is not derived from ethnic or cultural sameness but rather from shared activity in support of a common political project. This may be true or it may be false, but the survival of a country requires a great deal more than economic sacrifices alone. Müller does not consider in detail the role of traditional patriotism in motivating citizens to join the military, to fight and, perhaps, to die in defense of their country.

Müller mentions the role of patriotism in war only briefly and then primarily as an association he wishes to avoid. In his comparison between nationalism and patriotism and their potential to motivate sacrifice on the part of citizens, he admits that the nation can be a powerful motivator on the battlefield. In war the nation can be seen as a “quasi-religious, transcendent abstraction, almost a mystical body linking the past, the present and the future.”\(^{240}\) The symbol of the nation clearly appeals to the passions, to some

\(^{239}\) Ibid., 73.

\(^{240}\) Ibid., 74.
romantic notion of a cause higher than oneself. However, this is not the kind of appeal that Müller wants or the sort of sacrifice he is interested in. He acknowledges that historically patriotism has had a similar emotional appeal and that there has been a strong connection between patriotism and self-sacrifice. He argues that “in particular, Christian ideals of self-sacrifice and agape were often transferred to a divinized patria; patriotism was spiritualized, and religion linked to reasons of the state.”241 But this relationship between patriotism and “militarized death” is not one that Müller wishes to encourage. He suggests that the attitude of veneration or sacralization of the constitution, the divinization of the patria, if you will, is not something which constitutional patriotism, strictly speaking, can encompass. Although such attitudes are, perhaps, inevitable in some portion of the population -those who have an “aesthetic desire for symbolism and meaning in politics,”- the core commitments of constitutional patriotism will always militate against them.242

Müller does not consider, however, how a country is to survive if it cannot motivate its citizens to sacrifice themselves to defend it. Müller looks askance at the passionate appeal of traditional patriotism and nationalism because he sees the danger of emotional manipulation and unjust behavior, but he does not seem to consider its manifest utility. It is popular in our present climate to treat conventional warfare as mostly a thing of the past and to see ourselves as moving toward a world of peaceful democratic states. However, our disinclination as industrialized democracies to go to war with one another should not blind us to the fact that enemies still exist and militaries are

241 Ibid., 83.
242 Ibid., 84.
still necessary. The recent contretemps between Russia and Georgia should leave us in no doubt of the fact that, although the rules of warfare have changed, motivations have not and currently existing borders are not by any means set in stone. Self-sacrifice a bit more profound than the redistributive policies of the modern welfare state is still required.

The lack of specificity which plagues Müller’s constitutional patriotism as well as its primarily negative emotional components make it difficult to see how it can motivate someone to risk his or her life in the defense of constitutional culture. The power of nation or the patria as a symbol comes from both its specificity and the notion that it represents something which, despite it failings, is on the whole good. The country, as understood by the traditional patriot, has a relatively fixed character that allows the patriot to understand it as something which is specifically his own. Moreover, he considers that his country is something that is for the most part good. Both of these things can inspire the patriot to make great sacrifices on behalf of his country. The completely open and constantly changing character of a constitutional culture as well as the primarily critical attitude of the constitutional patriot simply do not lend themselves to this kind of loyalty. Those inclined to be suspicious of patriotic loyalty (and perhaps with good reason) may think that this is all to the good. However, no one can reasonably deny the utility of patriotism when it comes to the necessary task of defending a country from its enemies.243

243 In his discussion of the European Union, Müller suggests that, while the EU may never be able to inspire its citizens with the willingness to “die for Brussels,” it can get along just fine with a “specifically European volunteer army whose members have contracted to make the ultimate sacrifice” (Ibid.,128). The incongruity of this statement is fairly striking. From a purely utilitarian perspective it does not make sense to enter into a contract to die for your country. If I only desire the preservation of my country for whatever tangible benefits it can provide to me, there is no reason to preserve it at the cost of my own life. Perhaps,
Thus, key to Müller’s attempt to make constitutional patriotism safe for liberalism is his alteration of the patriot’s mode of attachment from that of the lover to that of the critic. The goal is to prevent the sort of unreflective approval or unwarranted belief in the superiority of one’s country that have traditionally been understood as a necessary appurtenance of patriotism. Müller’s constitutional patriot always looks upon his constitutional culture with a critical eye, always forcing himself to keep in mind the ways in which it falls short of the ideal of justice. I have suggested, however, that the constitutional patriot is not as clear-sighted or unbiased in his assessment of his constitutional culture as he might at first appear. To see nothing but failure is just as much as mistake as seeing nothing but triumph. The standard which the constitutional patriot uses to judge his constitutional culture – the total equality of all citizens as evidenced by total participation in the political process on equal footing – is too generalized to be of any real use.

It is never possible to achieve this end, but it is possible to do justice at specific times and in specific circumstances. To truly judge how a political entity has succeeded or failed to do justice, how it can improve itself to serve this end, one must look from the inside out, like the lover, rather than from the outside in, like the critic. Even if this were not the case, however, Müller’s critical mode of attachment robs constitutional patriotism one might feel that the risk to one’s life was small enough to be worth the tangible benefits one might accrue, but would such a motivation really hold up when the danger became acute? One might suggest that there exists some moral obligation to risk my own life in order to defend my country, but Müller does not argue for such a thing. Indeed, his emphasis on the voluntary nature of the military and the fact that “the vast majority of citizens will never be asked [to die for the EU]” indicate that no such general moral obligation exists in his scheme. Perhaps, a small number of people would join the military just for kicks, but relying on such is not sufficient to populate an entire military. The problem of motivating citizens to risk their lives in the defense of their country has long plagued social contract theory. Even Hobbes does not think that it ever makes sense for a person to contract away his or her life. To be sure, Müller does not contend that his constitutional patriotism can be an adequate substitute for traditional patriotism in this regard, but neither does he address the problems resulting from the void that is left behind.
of much of its vaunted usefulness. The critical mode requires that the patriot be only conditionally attached to his constitutional culture, that he be disposed to see primarily its failings, and that he reject national heroes and triumphalist historical narratives. All of this, while it may indeed be required to reduce the danger of chauvinistic patriotism, robs constitutional patriotism of its ability to motivate the type of sacrifices that are necessary in order to preserve a country. Thus, it is difficult to see what precisely we have gained from the exercise.

3.6 The European Union as an Example of Constitutional Patriotism

In the final section of his book, Müller turns to a discussion of the European Union. Many of the proponents of constitutional patriotism as well as some defenders of the European Union have suggested that constitutional patriotism may provide a possible way forward for the European Union, a method by which it can progress from its origins as a trade association towards a more substantial form of unity. Much of the interest in constitutional patriotism comes from those concerned with the emotional/affective disconnect between the citizens of Europe and the government of the European Union and hence the potential for fragmentation along national lines. The European Union has often been seen as suffering from a lack of democratic legitimacy. However, without a sense of a common European identity and attachment to the idea of Europe as a whole further democratization of its ruling structure may lead to levels of internal conflict that are simply unmanageable.

Müller argues that in the past the political elites of Europe in directing the development of the European Union have pursued a policy which might best be described
as “integration by stealth. . . . Low level technocratic measures, initially hardly visible for the peoples in the founding countries, were supposed eventually to ‘spill over’ into high politics.” He compares the development of the European Union to the British Empire, which the prime minister Lord Palmerston once famously declared to have been acquired in a “fit of absent-mindedness.” The peoples of Europe did not think very much about the ties by which they bound themselves together and when they did think about it they just went along with it. However, in recent years as integration has proceeded apace it has become more controversial because there is no real agreement about what the end goal of the union should be and no firm understanding of a European identity. The rejection of the Lisbon Treaty by a referendum in Ireland is only the most recent example of this controversy. Although, there has been increasing attention to the issue of a common identity for all Europeans, Müller contends that “declarations of identity have remained at the level where supposedly shared European values hardly differ from those propounded by the United Nations . . . European specificity has remained elusive.”

Müller suggests that an analysis of the European Union through the lens of constitutional patriotism can help to shed light on the vexed question of European identity. He sets out to describe what European constitutional patriotism should look like and what its object should be. In other words, he attempts to sketch the contours of a European constitutional culture. However, Müller’s analysis of the European Union and its constitutional culture serves only to further illustrate the weakness of his theory which, in the preceding pages, we have been at pains to identify. The specific constitutional

244 Ibid., 94
245 Ibid., 97.
culture of Europe turns out to be identical with the general statement of the characteristics which any constitutional culture must possess. In particular, the defining feature of European constitutional culture seems to be that it is a continuous process of becoming, with no fixed structure, no fixed boundaries, and no fixed principles other than its general dedication to a liberal understanding of equality and the rights which flow from it. The only thing unique about European constitutional culture is the inability or unwillingness of Europeans to give it any content. An examination of Müller’s portrait of European constitutional culture will serve to complete our discussion of his theory by illustrating how precisely an understanding of patriotism based on such an amorphous object is unsustainable.

Müller says that he wants to articulate a European constitutional culture that is “centered on universalist liberal-democratic norms and valued, refracted and interpreted through particular historical experiences.” Yet, immediately after having stated this goal he recasts the question at hand as a search for a “core morality” at the heart of the project of the European Union. This change in terminology is important to note because it indicates something about the type of object to which the European constitutional patriot will be attached. Somehow, the concept of a constitutional culture with all its specific and unique historical practices and traditions has been shunted to the side in favor of a “core morality,” which as we shall see is rather abstract in nature. One of the major goals of Müller’s argument has been to show that the proper object of the constitutional patriot’s attachment is neither a set of abstract moral principles nor a concrete political document (i.e. a constitution), but rather something he calls a constitutional culture which

246 Ibid., 119.
is at once abstract enough to render constitutional patriotism safe and concrete enough to render it useful. He has argued that a constitutional culture is made up of many different things including a country’s historical common narrative, political and social institutions, traditions, and practices as well as shared political principles. But it is here that he for the first time offers a description of what constitutes the constitutional culture of a particular society, namely the European Union. Unfortunately, we find that the European Union’s constitutional culture is made up of nothing more than a common “core morality.”

Müller begins his explication of European constitutional patriotism by focusing on what he considers to be “peculiar features of the EU itself.” He identifies three peculiar characteristics of the European constitutionalism which set it apart from constitutionalism at the level of individual states. First, he claims that in the European Union “constitutionalization has so far been an ongoing and open-ended process of deliberation and political struggle.”\(^{247}\) The EU as a political entity is not based upon pre-existing cultural or ethnic groups, but is rather an ongoing project that is constantly in the process of defining itself. There is no fixed understanding of where this project is to end or what its goal should be – a closely-knit federation of individual states or a supranational state with a single government. Secondly, the process is also open “with regard to its constituents.”\(^{248}\) The Union itself is always open to new membership and the “constituent power” which governs the European Union is open to enlargement and change in structure. Moreover, Müller contends there is great potential for what he calls “normative spillover” from the European Union to other countries. In other words, it has

\(^{247}\) Ibid., 124.

\(^{248}\) Ibid., 125.
the potential to stretch its influence beyond its own boundaries by allowing its values to shape the political cultures of surrounding countries. Thirdly, the European Union is not made up of “one demos” but rather “is based on a group *demoi*.”249 These various groups of peoples are constantly negotiating over how many of their cultural practices they wish to share in common and how many they wish to keep separate to allow for maintaining distinct individual cultures. There is no fixed rule by which to decide these questions in the European Union and they will therefore continue forever to be a source of debate and negotiation.

As one can clearly see, these three characteristics are all interrelated. Indeed, one might say that these three features are merely different manifestations of one common principle: the character of the European Union is that it has no fixed character. There are no agreed upon goals for the European Union and therefore there can be no definitive argument for it to possess a certain political structure, certain institutions or even certain boundaries. The answers to all of these questions are always open to debate and reconsideration. The European Union does possess a political and legal structure, but this structure is in no way insulated from questioning or change. The European Union is dedicated to the preservation of individual rights and liberties, but there is no fixed agreement concerning what a respect for these rights specifically requires.

Müller’s third feature of the European Union, the idea that there must be constant negotiation between the people over what to have in common and what to keep separate, refers at least in part to the practice in the European Union of allowing exemptions from general policies regarding individual rights in order for individual peoples to maintain

249 Ibid.
certain cultural traditions. For example, the exemption of the Mount Athos monastic communities from certain provisions regarding women’s rights were specifically negotiated in the treaty which brought Greece into the European Union. Mount Athos’ refusal to allow women within its territory has, nonetheless, remained a continuing source of tension and was condemned by a French EU deputy as recently as 2002. Despite the fact that this issue was spelled out in a treaty it is not considered settled, and may be a point of future negotiation. This is only one small example of the constantly changing character of the European Union. Through its history it has developed from an organization dedicated purely to pursuing common economic interests to the point where it is attempting to provide itself with a constitution and the dictates of its courts and parliament have the force of law in all member states. There is no telling how the Union will change in the future and Müller believes that this very fact is its defining characteristic.

We should pause now to note exactly what is missing from Müller’s description of the European constitutional culture. He does not describe any practices or traditions or institutions that are specifically European in character. With regard to institutional structure, the Europeans have both parliamentary and presidential systems, both winner-take-all elections and proportional representation. The Europe Union also has both civil law and common law systems. Müller does not identify any features which he regards as specific to European political culture in the way that so-called rugged individualism and a tendency to distrust government are often seen to be features of American political culture. He does not identify any common symbols or celebrations or objects of veneration. The fundamental feature of the European Union which Müller does identify
turns out to be precisely the feature that he thinks all constitutional cultures must have, i.e. that it has no fixed character at all, that it is in a constant state of becoming, constantly in flux with no features of any kind that are insulated from change.

The problem is that this characteristic is in no way specific or particular to Europe itself. Indeed, the very fact that Müller thinks all constitutional cultures should have this feature indicates that he knows that it is not and cannot be specific to Europe. European constitutional culture, as Müller describes it, has no specific content and therefore cannot be the object of patriotic attachment. What the European constitutional patriot is supposed to be attached to, it would appear, is nothing more than the principle that the object of his attachment should have no fixed character. Whether one can really be attached to such a principle is, perhaps, unclear. But what is clear is that this object cannot fulfill the requirements of specificity that Müller himself identifies as an essential part of any sort of patriotism.

Müller does, in fact, recognize certain problems with his explication of European constitutional culture, but he does not in the end think that these problems undermine the prospect of European constitutional patriotism itself. To begin with, he admits the validity of what he calls a “Schmittian” objection to his understanding of the European Union. This objection contends, after the fashion Carl Schmitt, that a political entity with no clear sovereign or locus of authority is doomed to failure because it cannot protect itself from its own enemies. Müller acknowledges, as we mentioned above, that people are not necessarily going to be inspired to “die for Brussels.” 250 The countries of the European Union will have to defend it from its enemies by means of a volunteer

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250 Ibid., 127.
European army or with the armies of the individual nation-states. If it fails to do this, then it will perish, but he does not think that the lack of a central locus of authority necessarily means that this will turn out to be the case.

Secondly, Müller acknowledges that the European Union suffers from a problem of with the concept of recognition. This problem might also be referred to, as I have above, as the problem of determining what exactly a commitment to equality and universal human rights requires. The peoples of the EU have a variety of different cultural practices and traditions for which they demand recognition as part of the recognition of their fundamental human equality. These practices often conflict and the recognition of them by the European Union as a basis for reservations or exemptions from general laws also creates conflict. Müller admits that there is no fixed standard on which to base decisions about these sorts of conflicts and that this must always continue to be open to debate. But he further argues that the EU will inevitably be a force for creating homogeneity among its peoples. “Preservation of ways of life” is not its primary purpose and some homogenization is both acceptable and inevitable.251 Finally, Müller does recognize that a constitutional culture which is in an eternal state of becoming can create certain practical problems, not least of which is the problem that people cannot be free if they do not know what the law forbids and what it allows. Although he contends that there is not really a sharp dichotomy between an open and closed constitutional culture and that all legitimate constitutions contain some method for reopening fundamental questions, he concedes that the structures of the European Union may never be very easily readable or understandable in the way one might like.

251 Ibid., 134.
All three of these caveats which Müller offers with regard to his explication of European constitutional culture are related to its essentially open-ended and amorphous character. Müller realizes that having a constitutional culture without a fixed character does entail certain problems, yet he concludes that it is still possible for this constitutional culture to serve as the basis for a robust constitutional patriotism. There will always be the possibility of conflict, over individual rights, over exemptions for various national traditions, over the proper structure of political and social institutions, indeed, over all the essentials of a constitutional culture. Yet over time the EU has developed shared principles and practices which can act to contain such conflict. These include “mutual respect and learning, civilized confrontation, and consensus fashioning.”252 In other words, within the conflict over defining the EU and its various attributes “only a certain kind of political claim-making is publicly acceptable.”253 The European Union is open to all types of change at all times, but there is, Müller argues, a recognized way in which such change is supposed to come about. There are certain rules or mores that govern the debate and these norms of respect and consensus building contain what might otherwise be chaotic conflict. Müller concludes that while the constitutional culture of the EU may continue to rely on its existing member states remaining democratic it still has a distinctive character of its own which can serve as the object of European constitutional patriotism.

Müller is careful not to oversell the idea of European constitutional patriotism and he is somewhat cognizant of its limits, but I would argue that he does not sufficiently

252 Ibid., 136.
253 Ibid., 137.
appreciate the problems which a constitutional culture of eternal becoming entails.

Conflict and debate within a political entity are, of course, inevitable, but in order for both the political entity to be able to act and for those actions to be accepted as legitimate by the people that conflict has to be somewhat contained. The ability of a group of people to act as a whole depends on their ability to come to some sort of agreement about how to act. That agreement can only come about if the people in question share certain foundational principles – principles that govern both their understanding of the goals of their group and what constitutes legitimate procedures for decision-making. A shared understanding of the goals of the group will not eliminate conflict or debate, but it will make such debate more manageable. To open up for debate the goals of the group or even its right to exist as a group with a specific character is to enlarge the scope for disagreement to the point where action becomes nearly impossible. The very existence of a specific political entity and its particular understanding of its own end are not things which, I would argue, can be ultimately rationally justified. They must be assumed and shared by the members of the group in order for the group to exist in a form in which it can act in history.

Allow me to illustrate by means of an example. Imagine that there is a particular community group dedicated to teaching area children to play the flute and in general promoting appreciation of that instrument. Now, it is perfectly possible to offer a rational argument in support of the proposition that all human beings should have some exposure to music. It is not, however, possible to rationally justify the existence of this particular group and its dedication to the flute. There are many ways of exposing people to music and spreading appreciation for it and there are many different instruments and types of
music. One might argue for a hierarchy among types of music and instruments, but it would be exceedingly difficult, if not impossible, to gain consensus for any particular ordering. Moreover, even if we do agree to a hierarchy as long as we agree that learning the flute is a positive good then we will need some group to promote it. There are doubtless other ways for people to spend their time and money, but there is no way to argue in the abstract that people should promote piano playing instead of flute playing, for example.

The existence of our flute group and the efforts of its members cannot be rationally justified. However, the only way for the group to actually get on with the business of promoting the flute is to agree that that is, in fact, their goal. There will be a myriad of disagreements about how best to go about achieving their goal, but those disagreements will be limited to the question of means and therefore will be more likely to achieve a working consensus that allows for action. Further specification of the goal – such as declaring that the group will be dedicated to promoting flute playing among children – will allow for further containment of conflict within the group and greater progress in their goal. But for some member of the group to stand up and declare that they do not think the group should be dedicated to promoting the flute, but rather should devote themselves to the piano or, indeed, to the fine arts instead of music, is to bring up a question which cannot be settled. If the group were forced by its own operating principles to entertain such a suggestion, then it would have a tendency to become mired in fruitless debate. They would not end up promoting anything except endless disagreement.
The complete open-endedness of Müller’s European constitutional culture makes the achievement of a general consensus about any issue exceedingly difficult. How can the Europeans move forward when there is no agreement about the very nature of the union itself, what goals it should be dedicated to and what its boundaries should be? If every debate becomes mired in a discussion of first principles, progress towards practical real world ends cannot occur. (It would be like having to begin a debate over the ethics of capital punishment with an argument over the subject/object problem and a proof for the existence of external objects - better just to assume that the murder took place somewhere outside of the murder’s mind and move on.) Yet, clearly activity of some sort does occur; the European Union does institute policies and pass laws and act on the world stage. There are, it is true, other ways to achieve consensus and take action. Instead of having all the members of the group agree on the ends of the group, one can limit the group’s decision making authority to those who do agree on its ends. Hence, the European Union’s oft-discussed democratic deficit. When a small group of people are responsible for making the group’s decisions and are relatively free of accountability to the wider group, it is easier to shunt to the side those troublesome debates about ends. The difficult question of ends can also be avoided when motivations other than the welfare of the group as a whole are at work among the decision-makers.

In his account of the European Union, Müller worries about the problem of recognition or tolerance – whose distinct cultural practices should be allowed to thrive and what practices need to be homogenized in the name of protecting individual rights and promoting a common Europe. The only rational way to approach this sort of question is by reference to the ends of the group. If the goal is promoting a common
European economy that distributes both risk and reward across the various countries, then
economic protectionism by individual member-states should not be tolerated. If the goal
is to promote peace and respect for individual rights by moving beyond the dangers of
nationalistic fervor, then allowing member-states to retain traditional cultural practices at
the expense of protecting the rights of previously oppressed minorities should not be
tolerated. The only way to find an outcome that is just is to weigh individual claims in
the light of the overall ends of the group. However, this is not the only way to make a
decision; consensus can also be reached by bargaining among a small group of interests.
If the members of the decision-making bodies in the EU are not thinking about the good
of the EU as a whole or about treating all groups justly, but are rather trying to get the
most for the particular interest that they represent – whether it be a certain economic
sector or cultural group or individual member state or even their own personal interest –
then consensus can be achieved by trading among material benefits. The problem here is
that getting anything out of such an arrangement depends both on money and having a
seat at the table, and the table, of necessity, must be kept fairly small if action of any kind
is to be produced.

The point here is that, despite Müller’s contentions about the virtues of openendedness, some sort of agreement about ends or goals and about the rough boundaries of
a group is necessary in order to achieve either decision-making of any kind or decision-
making that is not rife with corruption. An agreement about manners and mores of the
kind Müller locates at the heart of European constitutional culture simply is not
sufficient. An ethic that emphasizes always trying to learn from our differences and
allowing everyone to voice their opinion is fine if our only goal is a thorough airing of
the issues. However, when a group is called upon to act – as all political entities must – then it has to know what acting with tolerance and respect looks like. Tolerating all behaviors is simply not possible and the only just way of deciding which behaviors to tolerate and which not to is to make reference to the group’s end. The procedures and mores of the debate will themselves soon be called into question, if they are the only thing that is exempted from change. Robert’s Rules of Order make no sense when utterly divorced from their context. One might well ask: why should our confrontations with one another be “civilized,” as the mores of the European Union require? What exactly does “civilized” mean and why should we respect up hold it as a standard?254

3.7 Conclusion

Thus, Müller clearly believes that the fundamental liberal political principle requires a constitutional culture to be constantly open to revision, reinterpretation and reformulation. Recognizing all human beings as equal requires allowing all people access to the process – not only the institutional political process but also the more informal processes of constructing a common historical narrative and exploring common political practices and traditions. This means that there is no aspect of a constitutional

254 It is easy to see in Müller’s argument here shades of Habermas’ theory of communicative ethics. It is the usages, manners, and procedures which inform public political debate that form the true unchanging moral core of European constitutional culture. Habermas would argue that one can find a solid foundation for these procedures, a reason for insulating them from debate or alteration, if one examines the universal practices of human communicative action. When human beings engage in deliberation about action there are certain procedures and principles that they follow and these can act as a guide for how political deliberation must occur if it is to be just. Whether or not Habermas’ theory can really deliver on its promise to protect the procedures of political deliberation while leaving its content entirely open to change is not entirely clear. But, for his own part, Müller does not either consider the potential problems of such an approach or even offer his own version of Habermas’ argument on this point.
culture which is exempt from reinterpretation, revision or even outright rejection by a citizen at any time and in any manner. The only thing that should remain unchanged are the basic principles which govern our exchanges of ideas and our “political claim-making,” namely civility, respect for disparate points of view, openness to all interested parties, and an inclination towards consensus building. He upholds the constitutional culture of Europe as an exemplar of this principle, so much so that his understanding of what a constitutional culture ought to be and his explication of a specifically European constitutional culture appear to be identical. The problem with this emphasis on openness is that while it appears to be liberating it is, in fact, paralyzing. Complete openness maybe appropriate to a debating society (although even this is doubtful), but when political action is necessary conflict must be contained. The ability to act as a group is only possible if we can come to some sort of decision as to how to act and decisions of this sort can only be reached if the scope of conflict is limited. If the conflict is not limited on the basis of shared principles or shared understandings of the group’s end, then it will inevitably be limited by bargaining in material interests, influence-peddling, money, social class or some combination thereof. In this way one can see how the equality that Müller hopes to promote can actually be deeply undermined by his insistence that the object of constitutional patriotism be always open to revision and reinterpretation.

In addition, the useful qualities for which patriotism is supposed to be rehabilitated appear to have been lost in the rush to make it safe for liberalism. The openness of the object of constitutional patriotism robs it of its specificity and hence of its ability to unify a group of people and to motivate them to serve the interests of the
group when it is not clearly in their own interest. There is nothing specifically *European*
about the European constitutional culture as Müller describes it, indeed, there is nothing
specific about it at all. Its features are identical to the general features which Müller
argues all constitutional cultures should possess, namely that they should be in a
continuous state of becoming, constantly open to revision and alteration by their own
citizens. Therefore, there is nothing which can unite the members of a particular political
community together in despite of their differences. Indeed, the constitutional culture
seems to be nothing more than another vehicle for revealing, recognizing and
legitimizing those differences. Individual citizens claim recognition in the public sphere
by offering up new and varied revisions of traditional political practices and narratives
based on their own individual life experiences or the life experiences of their particular
sub-group. Moreover, such claims for recognition can only be answered by a
relativization of all competing narratives or interpretations of the character and history of
a political community. The result being, of course, that the political community has no
common narrative or character, only lots of individual ones. Whether or not such a
procedure genuinely provides equality of respect and recognition is certainly a matter for
debate, but what is clear is that it does not provide unity. And because it cannot provide a
unifying conception of what the patriot is supposed to be attached to, it also cannot
motivate the kind of sacrifice of individual interests that is necessary to preserve the life
of any political community.

Müller’s goal in formulating his theory of constitutional patriotism was to
articulate an understanding of patriotism which was both inclusive and useful. I have
suggested that his reformulation of both the object and mode of patriotic attachment have
resulted in an understanding of patriotism which conforms to neither of these two criteria. The foregoing analysis has, I think, revealed that the tension we see in Müller’s understanding of constitutional patriotism revolves around the issue of specificity. The more specific a principle is the more points of view, and hence the more people, it excludes. Müller, to his credit, is not as allergic to the idea of exclusion. He recognizes that the general liberal political principle that he endorses can be realized concretely in a variety of different specific ways and that these differences may lead to some levels of homogenization and exclusion of the other.\textsuperscript{255} Yet, he still seems to adhere to the notion that while exclusion is a reality it is also fundamentally illiberal and must be limited as much as possible. While he is not advocating a world state and is ready to accept that different countries may pursue justice in a different way, he is clearly not willing to tolerate the exclusion of any of the citizens within a particular country from participating in that country’s political process either formal or informal - hence, his insistence on the complete openness of a constitutional culture to revision and reformulation by any or all of its members.

This may seem like a reasonable compromise between unity and diversity but I think I have shown here how it fails to hold water. An individual constitutional culture is supposed to be open in order to allow for the possibility of including every one of its members.

\textsuperscript{255} In his discussion of the dangers of “McCarthyism” in \textit{Constitutional Patriotism}, Müller recognizes that the nature of a group’s unity will also determine the types of people that it is forced to exclude. “Paradoxically, then, the unchosen (birth or culture, let’s say) make for political freedom and enable tolerance (think of an idealized version of Britain, tolerant of political eccentricities)  —whereas the possibility of political choice makes for exclusion (think of the United States and McCarthyism)” (66). Later on he is also dismissive of those who “would want to rule out any ‘identity talk’ for fear of ‘othering,’ or who drop a Schmittian ‘h-word’ (here, homogeneity), as soon as there is any talk of allegiances, or even just political coalition-formation” (85). He insists that democratic politics is of its nature risky and that those who would require that constitutional patriotism completely eliminate the risk of patriotism ever turning illiberal are demanding too much of the concept.
citizens within it. But because it has no fixed character or content, instead of including everyone it includes no one – because it does not really exist at all. A specific understanding of the goals and purposes of a group will be exclusionary - this is true – but without such an understanding the group cannot act as a whole except by force or fraud. The truth is that we need exclusion in order to live as human beings, to act in concert and pursue common goals. The question should not be how to eliminate exclusion, for that would be an exercise in futility, or even how to reduce it as much as possible, for such a goal must always be self-undermining. The question should be how to make exclusion rational and therefore how to make it just. Thus, to the extent that liberalism views exclusion as an evil (even if for some it is a necessary evil) it will always be an in opposition to patriotism despite the efforts of Müller and others like him.
PART III

A SKETCH OF MORAL PATRIOTISM
CHAPTER 4:
SOCRATIC PATRIOTISM

It will be as well to begin my explication of my own view of patriotism with an analysis of Plato’s *Crito*. Although it does not offer a complete portrait of patriotism as I understand it, the *Crito* does illustrate for us how one might begin to construct a conception of patriotism which is compatible with some universal moral claims and yet takes adequate account of the inescapable particularity of human life. No one could accuse Socrates of being an unreflective patriot or a slave to custom, yet when confronted with the opportunity to escape a death sentence unjustly imposed by his fellow citizens Socrates refuses to flout his city’s laws. Plato puts into his mouth an eloquent defense of the necessity of the polis and the importance of loyalty to it. A careful examination of the arguments of the *Crito* can reveal both the shape and the limits of a patriotism which is both moral and substantive.

Plato’s *Crito* is a dialogue between Socrates and his friend Crito which takes place on the morning of the day before Socrates’ execution. Socrates has been convicted of corrupting the youth of Athens and has been sentenced to death. His execution would normally have taken place directly after his trial and conviction, but these events happened to fall during an annual Athenian religious observance. Every year the Athenians sent a ship to the island of Delos, near present-day Mykonos, which was sacred to the god Apollo. This mission was in gratitude for the god’s help when Theseus traveled to Crete and defeated the Minotaur. During the time in which the ship travels to
Delos and then returns the city of Athens must be purified and no executions can take place. Socrates’ execution was thus delayed for about a month because the ship had only just left for Delos on the day before Socrates’ trial. When Crito enters Socrates’ prison cell at the beginning of the dialogue, he has come to inform Socrates that the ship had been spotted at nearby Sunium on its return trip from Delos and is expected to land at the Piraeus on the following day. The time of Socrates’ execution is thus imminent.

This setting of the dialogue is, I would argue, important for understanding the relationship between the individual and the polis which is at the heart of Socrates’ argument in the *Crito*. First, it is important to note that the dialogue itself occurs within the context of a traditional Athenian religious/political celebration. At the time of the dialogue, Socrates is living, as it were, on borrowed time. His execution has been delayed out of respect for the traditions instituted by the common ancestors of the Athenians. According to Phaedo, the Athenians who sent Theseus and his companions to Crete vowed that if the seven youths and seven maidens returned safely then they would send a tribute every year to Delos. And he concludes, “ever since they have kept their vow to the god, right down to the present day.”256 The Athenians of Socrates’ time recognize that they are part of the same whole as the Athenians of Theseus’ time. Just as Theseus’ accomplishments are their accomplishments so the obligations of previous generations also devolve upon them. It is the Athenians’ respect for the traditions of their ancestors, their belief in the existence of a political whole which lasts through time and of which they are a part, which allows for the conversation between Crito and Socrates to occur.

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take place at all. It is in the space created by this adherence to tradition and custom that the leisure for reflection upon the great questions of human life occurs. This, one of Socrates’ very last philosophical dialogues, takes place as always within the context of the political community of Athens.

It is perhaps also significant that the religious observance which delays Socrates’ execution is associated with Theseus. Theseus was regarded in Greek legend as both a hero and a founder of Athens. His trip to Crete and his defeat of the Minotaur represent the beginning of Athens’ rise to power in the Greek world. Moreover the defeat of the legendary Minotaur monster as well as Theseus’ famous defeat of the bandits Procrustes, Sciron, Periphetes, and Siris on the road to Athens can be seen as a symbolic rejection of the Archaic Greek world with its monsters and blood feuds. These bandits all violated the rituals of hospitality and tricked and robbed travelers who were weaker than they. Theseus’ defeat of these enemies, who represent various primordial human fears, can be seen as the coming of law and order and the enforcement of a justice which protects the weak and powerless, in much the same way that the end of Aeschylus’ *Orestia* can be seen to represent the foundation of the rule of law and the end of blood feuds. Perhaps, it is also telling that Theseus was sometimes celebrated as the founder of “scientific wrestling” in which fancy footwork and tricky holds can allow a weaker opponent to defeat a stronger. Theseus was also celebrated for having united Attica to the Athenian polis, an event which was celebrated annually in the Synoikia festival. In addition, by the mid-fifth century BC, Theseus had come to be celebrated as the founder of Athenian democracy. Theseus was portrayed as a friend to Athenian democracy in Euripides’ *Suppliant Women*, Sophocles’ *Oedipus at Colonus*, as well as the works of Demosthenes.
and Isocrates and later Plutarch. Theseus is thus not only associated with Athens’ rise to prominence but also with the institution of law and order and the development of democracy.

Thus, from the setting of the *Crito* we can perhaps infer that Plato is attempting to indicate to the reader two things, both of which we find later present in Socrates’ explicit argument. The first is that philosophical discourse occurs always within the context of a specific polis with specific customs and traditions. The circumstances are such that if it were not for the Athenians’ respect for their traditional culture and customs, without their understanding of themselves as part of a community that exists through time, the conversation between Socrates and Crito would (quite literally) not have been able to take place. The second point, however, is that not just any group or community can facilitate philosophical discussion in this manner. It is the Athens of Theseus that Plato wishes to draw our attention to – an Athens which is not a slave to Crete or Persia but can act independently in the world, an Athens which is governed by law and order, and an Athens which is dedicated to the principle of shared rule rather than the dominance of the mighty. These two points highlight the way in which the philosopher must be obligated to the city which facilitates his pursuit of truth but also the fact that this obligation is not without limits.

The question under consideration in the *Crito* is whether or not Socrates should attempt to escape from prison and flee Athens in order to avoid execution. Socrates is under a death sentence as a result of his conviction for the crime of corrupting the youth.

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of Athens. Socrates was convicted of the crime by only a small majority of the jury, but his failure to propose an adequate punishment for himself led to the imposition of the death penalty by a much larger percentage of the jurors. So far Socrates has resisted all attempts by his friends to persuade him to escape, but with the ship from Delos expected to return within a day and his execution looming Crito arrives at the prison in order to make a final attempt. Crito is a wealthy Athenian businessman from the same deme as Socrates who has been present throughout the events of Socrates’ trial and imprisonment. Xenophon describes Crito as a close friend of Socrates and he appears in several of Plato’s Socratic dialogues – the dialogue which bears his name as well as Euthydemus, Phaedo, and Apology.

As the dialogue opens, the contrast between Socrates’ attitude towards his impending execution and Crito’s is striking. Crito comes upon Socrates sleeping peacefully in his cell whereas Crito himself is frantically trying to come up with some method to convince Socrates to escape. Socrates indicates here at the very beginning of the dialogue and again in his first substantive response to Crito’s arguments that he is at peace with his impending death. Here Socrates says to Crito that it would not be appropriate for someone of his advanced years to resent death. A bit later Crito suggests that one should pay attention to the opinion of the many because they can inflict
the “greatest of evils,” i.e. death (44D). Socrates responds by saying that, in fact, death is not the greatest evil that can befall a human being, rather lack of wisdom is.

It is important to note here that Socrates insists from the beginning that there is such a thing as a fate worse than death. This may seem a trivial point, but Socrates’ entire position hangs on the notion that there is a way of living which is worse than death. If this were not the case, the sacrifice which Socrates decides to make for the good of both his soul and his city would be utterly irrational. This position sets Socrates apart from someone like Hobbes, who seems to have built much of his political philosophy upon the notion that there is almost no level of human subsistence, no matter how circumscribed or painful, that is not better than death. In a Hobbesian universe, while the duties of the citizen to his sovereign are myriad, they can never include the duty to sacrifice his life. For Socrates, on the other hand, it is the mad rush to avoid death which makes no sense; the same fate embraces us all in the end. What matters is how one lives and how one chooses to die.

In his attempt to persuade Socrates to escape, Crito presents two basic lines of argument. First, he appeals to the opinion of the masses in general arguing that society will think badly of both Socrates and his friends if the execution is allowed to proceed. Crito suggests that people know it would be easy for Socrates friends to bribe his way out of jail. If Socrates does not escape the Athenians will believe that Socrates’ friends were either too cheap or too cowardly to arrange his escape. Crito also presents another line of argument in which he contends that Socrates’ refusal to escape from prison is not right or just (dikaios). He intimates first of all that Socrates’ decision to “hasten [his] fate” and

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261 Crito, 44D.
give up his life when it is possible to save it is akin to suicide and therefore morally unacceptable. Crito also argues that justice requires Socrates to stay alive and educate his children. He maintains that: “either one should not have children, or one should share with them to the end the toil of upbringing and education.” 262 Thirdly, Crito contends that by waiting patiently for his own execution Socrates is taking the easy way out. Someone who has dedicated his life to pursuit of virtue as Socrates has should take the path of the wise and courageous man not the path of least resistance. Crito suggests that courage, in this instance, means fleeing from his own execution and living on to raise his children and philosophize in some new city.

Socrates’ response takes up both branches of Crito’s argument in turn, first the contention that Socrates should escape in order to placate the opinion of the masses and second the argument that escape is the just course of action. Socrates begins the first part by gaining Crito’s agreement to the proposition that there are some opinions which are worth paying attention and some that are not. Next, they agree that good opinions are the ones worth listening to and that good opinions are the opinions of those who have some knowledge of the subject under consideration. Socrates uses the familiar example of the gymnast who wants to improve his physical condition and therefore takes advice not from the many but from the gymnastic trainer who has specific knowledge of how to proceed. If the gymnast were to ignore the advice of the trainer and instead listen to the many he would ruin his physical condition. The soul which discerns what is just and unjust is more important than the body, so it is even more important not to take advice about matters of justice from the many but from someone who has genuine knowledge.

262 Ibid., 45D.
The physical life of the body is important but the ability to live a good life, an ability which depends on a healthy soul, is even more important.

Socrates then moves on to the second branch of the argument saying that he and Crito must, “examine next whether it is right for me to try to get out of here when the Athenians have not acquitted me.” Having dealt with considerations of public opinion Socrates now moves on to considerations of justice. Socrates insists that this is the only relevant question and that questions “about money, reputation, the upbringing of children” are out of place in their inquiry. Socrates begins this section of the argument by gaining Crito’s assent to the proposition that “one must never in any way do wrong willingly.” The word here is *adikeia* which can also be translated as injustice. One must never do injustice willingly because it is always both shameful and harmful to the soul of the person who does it, even when that injustice is done in return for a wrong done to us. Socrates and Crito then agree that one must also never injure (*kakos*) someone because “injuring people is no different from wrongdoing.” They also agree that if one has entered into a just agreement with someone then one cannot break that agreement.

263 Ibid., 48C.

264 Socrates does not dismiss these claims entirely, however. In the final portion of their appeal to Socrates, the Laws themselves reintroduce these considerations and suggest that the just thing to do with regard to both his friends and his children would be for Socrates to stay and suffer execution. “For consider what good you will do yourself or your friends by breaking our agreements and committing such a wrong? It is pretty obvious that your friends will themselves be in danger of exile, disfranchisement, and loss of property” (53A-B). A short time later the Laws point out that if Socrates goes into exile his children must share his fate or be strangers to him forever. “You say you want to live for the sake of your children that you may bring them up and educate them. How so? Will you bring them up and educate them by taking them to Thessaly and making strangers of them, that they may enjoy that too?” (Ibid., 54A).

265 Ibid., 49A.

266 Ibid., 49C.
It is at this point, however, that the progress of the argument runs into an obstacle. Socrates asks Crito: “if we leave here without the city’s permission, are we injuring people whom we should least injure? And are we sticking to a just agreement, or not?” And Crito responds: “I cannot answer your question, Socrates. I do not know.”\textsuperscript{267} Crito is an old friend of Socrates who has participated in or at least been present for past philosophical discussions. Socrates has indicated up until this point that all of the propositions he presents are ones which he and his interlocutors have deliberated upon and agreed to in the past: the idea that one should pay attention to some opinions and not others; the proposition that the good life is more important than life itself; and the contention that one should never commit injustice.\textsuperscript{268} These arguments are also familiar to the reader from other Platonic dialogues; in fact, Socrates uses the exact same example of the gymnast and the trainers in the \textit{Laches}. Up until this point, the dialogue has proceeded by short questions and answers because the ground was familiar and Crito has been able to come up with the appropriate responses. But up until this point, the argument has also been operating at a fairly high level of generality. If we were to imagine that the argument of the \textit{Crito} is a syllogism, we were up until this point still operating in the realm of the major premises.\textsuperscript{269} The propositions which Socrates offers and which Crito agrees to are general rules about justice and human behavior. They do not specifically involve Athens or Socrates or any particular set of concrete circumstances. It is on this level of generality that Crito understands what justice is and

\textsuperscript{267} Ibid., 50A.

\textsuperscript{268} See \textit{Crito}, 46D-E; 48B; 49A, respectively.

\textsuperscript{269} We could imagine the argument in something like the following form: (1) Socrates should do what is just; (2) Justice means never inflicting harm on anyone; (3) For Socrates to flee his execution would be harmful both to himself and to Athens; (Conclusion) Socrates should stay and be executed.
its importance in human life. When it comes to applying the general rules to the specific circumstances of the here and now, he is unable to offer an answer.

After this point, Socrates is forced to take up both sides of the dialogue himself by constructing a fictional dialogue between himself and the laws and the city of Athens. I would suggest that the breakdown in the dialogue and the subsequent change in structure are meant by Plato to signify an important difference between what came before and what comes after. Crito has, up until now, been able to carry on the dialogue because he is familiar with the various arguments and positions. The point at which he is unable to continue signals the point at which we begin to see something new, the articulation of a position which Socrates has never taken before. The change in the structure of the argument seems to indicate that here we are perhaps going to encounter a somewhat unexpected conclusion. Properly applying the minor premise to an argument is often the most difficult step because it requires prudence, an ability to see how the general rules of justice and virtue apply to a particular situation. Different contextual circumstances may lead to widely different conclusions in arguments that begin with the same major premises.

It is important to note at this point that the whole style of the dialogue changes. Not only is Socrates supplying both sides of the fictional dialogue, but the language employed and the format both become very different. Rather than proceeding by short question and answer, the Laws offer speeches which employ a great deal of emotionally charged and hyperbolic rhetoric. In the Gorgias, Socrates indicates that making speeches full of flowery rhetoric is the province of the sophist who aims at persuasion rather than
the philosopher who aims at truth and employs the method of dialectic. Some interpreters have suggested, for this reason among others, that Plato creates the persona of the Laws in order to distance Socrates from the argument which the Laws present. They suggest that the argument of the Laws is not one which Socrates genuinely endorses, but is rather meant to convince Crito who is incapable of appreciating Socrates’ real reasons for staying and undergoing execution. I would suggest, however, an

270 See for example the section in the Gorgias where Socrates asks Gorgias to take over the discussion himself:

No, if you yourself would be so good as to answer, why, I would far rather ask you. For I see plainly, from what he has said, that Polus has had more practice in what is called rhetoric than in discussion.
How so, Socrates?
Because, Polus, when Chaerephon has asked in what art Gorgias is skilled, you merely eulogize his art as though it were under some censure, instead of replying what it is.

Also, at bit later, Socrates asks Gorgias to refrain from making speeches while giving his answers.
Then would you be willing, Gorgias, to continue this present way of discussion, by alternate question and answer, and defer to some other time that lengthy style of speech in which Polus made a beginning?


271 This contention that he does not fully endorse the positions offered by the Laws is not without merit. The style of the Laws’ arguments does resemble those of the Sophists more than they resemble Socrates’ dialectic. On the other hand, the dialogue format is not completely absent because the Laws do require responses from Socrates at regular intervals. In addition, the suggestion made by Coby (among others) that the Laws, because they were created by the democratic constitution of Athens, represent the opinion of the many which (as we have seen Socrates’ argue) is insignificant compared to the opinion of the wise man, is an intriguing one. Patrick Coby, “The Philosopher Outside the City: The Apolitical Socrates of the Crito in Law and Philosophy: The Practice of Theory, ed. John A. Murley, Robert L. Stone and William T. Braithwaite (Athens, OH: Ohio University Press, 1992), 84-110. However, for the purposes of this dissertation, I am more interested in the content of the argument presented by the Laws than the question of whether or not they represent, in all their detail, positions which Socrates genuinely endorsed. In addition, it seems unlikely to me that Plato would put into Socrates’ mouth an argument with which Socrates would wholeheartedly disagree. Socrates is perfectly capable, as we have seen on many occasions, of adapting the method of his argument to the needs and abilities of his audience. Most importantly, the truth of the matter is that Socrates does not escape. He stays behind and is executed, and, therefore, there must be some argument in favor of staying that he genuinely finds compelling. I would suggest that we will probably find the bones of that argument underneath the hyperbolic rhetoric of the Laws. The change in the style of the argument comes about from the necessity of convincing Crito of the truth of the minor premise. If we are to accept that Socrates endorses the truth of the major premises, and I think that we can, given how common they are in other dialogues, then in order to draw the conclusion that staying to face execution is the just thing to do, Socrates must endorse the truth of the minor premise as well. He must genuinely believe that leaving would constitute the breaking of a just agreement and injuring the city. Unless we are to believe that none of the arguments presented in the dialogue represent
alternative interpretation. Having Socrates give voice to the arguments of the Laws can be seen as a dramatic device which points towards several interesting conclusions. First, it is significant that Plato chooses to personify the polis and its laws rather than simply putting his defense of it directly into the mouth of some other interlocutor. This technique emphasizes that the point of view expressed is that of the political community of Athens as a whole rather than of any particular individual. Plato seems to indicate here that the good of the polis itself is not identical with the good of any individual citizen. The “laws” (nomoi) and the “community of the polis” (koinon poleos) do not belong to any individual but belong to the people (past, present and future) in common.²⁷²

At the same time, however, the voice of the laws and the polis is really Socrates’ voice. The community must depend for its defense and maintenance on the actions of individual citizens. The character of laws is such that they normally act through force rather than persuasion. The laws state categorically that certain things must not be done and then they prescribe punishments for those who do not obey. They do not usually give reasons for their own existence nor do they try to rationally persuade citizens to act in accord with them. By giving the laws and city of Athens a voice in the dialogue Plato suggests that the laws cannot survive on the basis of coercion alone and that they need persuasion as well. The laws depend for their execution on the actions of individual citizens. If Socrates’ true positions, then we are not, I think, free to conclude that Socrates chooses to stay behind and be executed only because he could not carry on doing philosophy outside of Athens. A slightly less skeptical reading of the Crito might suggest that while Socrates accepts the truth of the minor premise with regard to his particular case, he would not accept it in all of the circumstances entailed by the argument of the Laws. For example, he might accept the conclusion that he cannot escape without harming Athens and that he has entered into a just agreement with the city and its laws, but not accept that all people who are wrongly convicted would be in the same situation as him and that not all people who currently reside in Athens have, in fact, entered into a just agreement with the city.

²⁷² Ibid., 50A.
citizens of Athens – like the members of Socrates’ jury and his prison guards. If the laws
cannot persuade those who should execute them of their usefulness and importance, then
they will be meaningless. There is no point in having laws if people like Socrates’ prison
guards refuse to enforce them or look the other way on certain occasions because it is to
their personal benefit or because they think they know better. But the laws cannot speak
for themselves; they must have people to speak for them like Socrates. The fact that
Plato makes Socrates speak for the laws perhaps indicates that he sees the philosopher as
particularly suited to this role. The philosopher understands the importance of the polis
in human life and can exercise persuasion on behalf of the polis and its laws.

The Laws open the dialogue by accusing Socrates of trying to destroy both them
and the city of Athens itself. In this their first major speech, the Laws defend the
proposition that if Socrates were to escape into exile he would be “injuring people whom
we should least injure.” The rhetoric which Laws employ here may seem rather
hyperbolic, but this exaggeration serves to point out several important premises about the
relationship between a citizen and his fatherland. The first proposition is that by escaping
from the punishment that has been handed down to him by the court Socrates would be
attempting to destroy the Laws and the whole city of Athens. One might respond by
saying that surely this one instance of disregarding the verdict of the courts would not
spell destruction for the entire system of law and the Athenian polis itself. However, the
Laws seem here to be arguing on the basis of a kind of universalization principle. One
act of defiance is unlikely to bring down the city, but repeated disregard for its laws

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273 Ibid.
274 Ibid., 50B.
would certainly bring about a quick and decisive end. As we have argued above, the city has no mechanism by which to enforce its laws other than the good will of its citizens. The Laws argue that if everyone were to behave as Crito wants, placing their own individual judgments above those of the city and its institutions, then the city would soon cease to function. It cannot be a principle of citizenship that one should obey the city until a disagreement arises and then substitute one’s own judgment for that of the laws and the courts.

Socrates responds with the claim that the decision of the courts was not correct and that the city has done him an injustice. He suggests that while it may not be acceptable to disobey the laws whenever a disagreement occurs it is acceptable to do so under special circumstance, i.e. when the laws have wronged an individual citizen. It is very important to note how the Laws respond to this particular claim. They do not suggest, as moral particularist might, that a citizen cannot have any knowledge of right and wrong which is different from or superior to the judgment of the moral and political community of which he is a part. Rather, they suggest that the citizen and his fatherland are not “on equal footing with regard to the right;” in other words they suggest that it is not true “that whatever we do to you it is right for you to do to us.”275 The Laws here suggest, as Socrates himself does in the Republic, that justice does not consist in paying back what one has been given. What constitutes justice in a particular situation depends upon the context and the relationship between the parties involved is an important part of that context. The Laws, in this section of the argument, suggest that the relationship

275 Ibid., 50E.
between the citizen and his fatherland is the most fundamental and important of all the relationships which make up a citizen’s life.

In addition, the Laws’ suggestion that the citizen and his patria, like the father and his son, are not “on equal footing with regard to the right” can have wider implications. The goods that the patria provides to its citizen are those goods which can only be provided by a group dedicated to a common end. Security, laws, and an education in justice are not things that any one person can provide to any other. In this sense, what the patria has given to its citizens can never be repaid by any of them individually. Moreover, the Laws of the patria are based upon the cumulative experience and knowledge of many individuals over many years. The experience and knowledge of the patria extend beyond what any individual can obtain in given lifetime. It is possible that when the Laws state that the patria and the citizen are not “on equal footing with regard to the right,” they are implying that, when faced with a direct conflict between one’s own understanding of justice and that of the patria, one should defer to the patria. As we have seen, Socrates maintains that one should follow the instructions of the person who has the most knowledge, like the gymnastic trainer. The gymnastic trainer’s knowledge is gained from many years of experience training people’s bodies. When it comes to questions of justice, who can have more accumulated experience than the Laws? Moreover, the education and security of many future generations depends on the continued existence of the patria. One might say that the only way in which the citizen can begin to pay back what he or she has been given would be to ensure the continued existence of the patria for future generations.
The Laws say: “Did we not, first, bring you to birth, and was it not through us that your father married your mother and begat you? Tell us, do you find anything to criticize in those of us who are concerned with marriage? . . . Or in those of us concerned with the nurture of babies and the education that you too received? Were those assigned to that subject not right to instruct your father and educate you in the arts and physical culture?”276 The Laws argue that they have given birth to, nurtured and educated Socrates and that he is therefore their “offspring” and “slave” (doulos).277 This is rather exaggerated rhetoric, but I would suggest that the Laws do not mean that they literally gave birth to Socrates, but rather that they provided the social and institutional structures which allowed for his birth to come about. The polis provides the peace and security in which genuine family life can flourish and moreover its laws support and define marriage the central institution around which family life is structured. The Laws go on to point out the central role which the patria plays in the nurturing and education of children. Government provides facilities and resources for raising children, but more than this the laws, institutions, practices, and traditions of a polis provide the ideals in which its children will be raised. The values of the political community fundamentally shape the values of its citizens.

The arguments of the Laws in this section reveal an important limitation upon the obedience of the citizen to his polis. The Laws draw a direct analogy between the role of a parent and the role of the patria. The respect and deference that is due to a parent is a direct result of the role that the parent performs in the life of the child. If the biological

276 Ibid., 50D.
277 Ibid.
parent fails to perform this role, then he or she is not due the same deference. In a like manner, the patria that fails to provide security and basic material resources to its citizens will not be performing its basic role as a patria. In addition, failing to support the institution of marriage and failing to provide an education in justice would also mean that the political community in question is not fulfilling its given role. Finally, one might also suggest that a political community which does not fashion its commands based upon the accumulated wisdom of generations does not fall within the scope of the Laws’ argument. This would mean that a political community which does not respect the rule of law, but is rather subject to the arbitrary will of a sovereign could not command the obedience of its citizens in the way that the Laws suggest.

The Laws end this section of their argument with a military analogy. They conclude that when disagreement arises between a citizen and his polis there are only two options: “you must either persuade it or obey its orders, and endure in silence whatever it instructs you to endure, whether blows or bond, and if it leads you into war to be wounded or killed, you must obey.”278 The Laws contend that for Socrates to flee the city while he is under a sentence of death would be like a soldier disobeying orders and abandoning his post. The military analogy here draws attention to the idea that the city cannot survive unless its citizens are willing to make sacrifices on its behalf, even to the point of sacrificing their lives. In a situation of battle the threat to the city is obvious and tangible, citizen-soldiers are all that stand between the city and imminent destruction. In the case of disobedience to the laws or disregarding the pronouncements of the courts, the danger is less obvious. But the Laws use this military analogy here to draw attention

278 Ibid., 51B.
again to the claim they set forward at the beginning – that in disobeying the laws
Socrates’ would be attempting to bring about the destruction of the city. In a battle one
soldier running away would probably not make very much difference, but if all the
soldiers were to run away it would be a disaster. Moreover, as any military commander
knows the flight of one soldier, especially one who has been looked up to as an example
and a leader of men, can quickly turn into the retreat of an entire army.

In this section the Laws emphasize the kinship relationship between a citizen and
his patria. The citizen owes to his country gratitude, deference, respect, honor and
obedience in an even greater measure than he owes those things to his parents. The
rhetoric here quite strongly emphasizes a relationship of superiority and inferiority. The
Laws refer to Socrates as their “offspring” and their “slave” and strongly emphasize the
inequality of their relationship. However, even here the Laws do not contend that blind
obedience is the only option for the citizen, just as we would not contend that a child
must always blindly obey his parents’ commands. When a child is young and does not
have the knowledge or experience to navigate his own way in the world, then obedience
to parents is the proper course. But as he grows older, while respect and deference are
still due to his parents, obedience in all things is not required. The Laws introduce here
another option for the citizen as well: he can attempt to persuade the government and his
fellow citizens that they are mistaken, in a particular case, about “the nature of justice.”

In other words, if the citizen believes that the course of action laid out for him by the
laws and the courts is unjust, he can attempt to persuade his fellow citizens of this fact.
This Socrates clearly attempts to do in the Apology, when he argues that he has not been

279 Ibid., 51C.
guilty of any kind of corruption of the youth. However, if persuasion fails, as it did in Socrates’ case, then obedience is the only other option. It would be the height of impiety for a citizen to “bring violence to bear” against his country.²⁸⁰ And this, the Laws argue, is what Socrates would be doing, if he were to flee from his execution.

Up until this point the Laws have spoken of a citizen’s country as something that he is born into and over which he has no control in the same way that he has no control over who his parents are. However, in their second major speech the Laws introduce the prospect of choice and the idea of a contract between the citizen and his polis as part of the basis of the citizen’s obligations. When Socrates began this final section of the dialogue, he indicated that there were two reasons for his refusal to flee his own execution. The first reason was that by doing so he would be “injuring people whom we should least injure.” This reason is dealt with, as we have seen, in the first of the Laws’ speeches, in which they liken their relationship to Socrates to the relationship between a parent and a child. The second reason that Socrates offered, however, was that he had entered into a “just agreement” with the city and the just man must always keep just agreements.²⁸¹ This second reason is dealt with in the second of the Laws’ speeches. The fact that Socrates offers these two separate reasons indicates that the proper relationship between a citizen and his country is somewhat two-sided. It involves both a kinship relationship which begins the moment a person is born into a particular political community and a contract which a person enters into once he has reached adulthood.

²⁸⁰ Ibid.
²⁸¹ Ibid., 50A.
In their second speech at 51D, the Laws reiterate their position that the political community is owed deference because of the way in which it has given birth to, educated, and nurtured its citizens. However, they go on to indicate that even all of this does not account entirely for the obligation which a citizen owes to his city. They add, “Even so, by giving every Athenian the opportunity, after he has reached manhood and observed the affairs of the city and us the laws, we proclaim that if we do not please him, he can take his possessions and go wherever he pleases.” The Laws insist that all citizens are free when they reach adulthood, to submit the laws and customs of their city to a rational investigation. And if a citizen is not satisfied he can take his possessions and leave to go and reside in a political community which more closely resembles his idea of what a polis should be. Anyone who remains in the city of his birth, however, is considered to have “come to an agreement with us [Laws] to obey our instructions.”

The Laws argue that by remaining in the city of his birth a citizen has, in fact, made a choice (conscious or otherwise) and has entered into a valid agreement with his political community. In other words, it seems that birth, education and nurture are not sufficient to bind a citizen in the kind of obedience that the Laws envision. There must be at least an opportunity for a citizen to leave behind the city that has raised him and strike out on his own. By this argument the Laws effectively limit the types of political communities to which their argument applies. A state which severely limits the freedom of movement of its citizens, one which refuses to allow them to leave or requires that they leave behind all of their property to do so, could not legitimately command the type of loyalty that the Laws argue for here.

282 Ibid., 51E.
This argument of the Laws is reminiscent of the argument for “tacit consent” which Locke presents in the *Second Treatise of Government*. A person who chooses to remain in a particular country and not emigrate is considered to have tacitly consented to the social contract. The idea of tacit consent is somewhat problematic, to say the least. The Laws suggest that any citizen who, once he grew to adulthood, found that he disapproved of the laws and institutions of Athens could have freely taken his property and moved elsewhere. “Not one of our laws raises any obstacle or forbids him, if he is not satisfied with us or the city, if one of you wants to go and live in a colony or wants to go anywhere else, and keep his property.”

At first glance this may not seem like a very profound concession because we take this sort of freedom of movement for granted today. But it is easy to think of historical societies where the governments did and still do actively seek to prevent emigration by their citizens, the Soviet Union for example, or North Korea or Cuba. One might suggest, however, that given the varying financial resources of citizens the option to emigrate is not really available to everyone who might disapprove of their country’s institutional structure and policies.

The truth of this claim, which has often been raised in objection to Locke’s theory of tacit consent, is undeniable. One can only respond to this objection in a limited way, but it might be as well to suggest in the first place that it is probably a good thing that it is not precisely easy to emigrate and start a new life in a different place. A person’s objections to the country of their birth would have to be very strong in order to justify the hardship one would have to undergo. This is a good thing because all governments at some point commit injustices. No political system is perfect and every citizen, at some

283 Ibid., 51D.
point in their life, will disapprove of their government’s actions. But emigration is only morally necessary when a citizen fundamentally objects to the ideals and principles upon which his political community is structured. When such an objection exists then, so long as the law permits it, a person would probably be able to find a way to leave. Furthermore, one might suggest that staying behind when emigration is at all possible would smack of hypocrisy. When a person decides to stay behind even though leaving would not cost him his life or his property, it suggests that there is something about his political society which he sees as good, which fulfills him in some important way.

In this speech the Laws also emphasize the idea that a citizen has the option to try to persuade his fellow citizens to come around to his point of view. This was mentioned in the first speech and is now emphasized even more here. The Laws contend that “we only propose things, we do not issue savage commands to do whatever we order; we give two alternatives, either to persuade us or to do what we say.” Here again this argument by the Laws limits the types of political community to which obedience is owed. A political community which does not offer its citizens any opportunity to persuade it, any forum in which to voice their disagreements or mechanism for addressing citizen concerns, would not be able to make the sort of demands upon its citizens that the Laws argue for.

This aspect of the argument potentially has very broad ramifications. What constitutes a viable opportunity to persuade one’s political community? From the specific circumstances of Socrates’ life we may be able to extrapolate something of what a political community might need to do in order to offer a genuine opportunity for

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284 Ibid., 52A.
persuasion rather than simply issuing “savage commands.” We might suggest first of all that adherence to the rule of law is an important part of this picture. A society which arbitrarily persecutes its citizens at the whim of the sovereign or of the opinion of some group of citizens would be one that accepts only obedience and not persuasion. Some sort of legal structure which is adhered to and offers an opportunity for the accused to defend him or herself seems to be essential. Persuasion also implies argument and an appeal to rational faculties. A society that is wholly taken over by patronage or bribery and where material goods hold more sway than argument would also fail to meet this requirement. Socrates was unable at his trial to persuade his fellow citizens of the necessity and importance of his life-long occupation as a gad fly, but he was given an opportunity to do so. This failure of Socrates is perhaps meant to illustrate something about the weakness of reason in human affairs, but this does not represent a failure on the part of the Laws to live up to their end of the agreement with their citizens. One might argue that Socrates’ refusal to escape shows his commitment to the ideal of rational persuasion in politics. He will not escape through an emotional appeal or flattery or insincere professions of guilt, nor will he escape through bribery or corruption. If his unable to persuade, then he must go to his death in order to show that he thinks persuasion is the only appropriate way for human beings to act together. He illustrates a

285 I think we must assume, given the fact that the Laws under consideration here are the laws of Athens, that Athens itself must fit into the category of a political community which offers a meaningful opportunity for its citizens to persuade it. It would be vain to deny that there were elements of corruption in Athenian society which contributed to the trial and execution of Socrates. First and foremost, perhaps, the fact that there were no public prosecutors and that private citizens had to bring suit for violations of the law certainly lent a degree of arbitrariness to the prosecution of offenders. Socrates’ relative poverty and lack of participation in politics probably also weighed against him at this trial. But these elements of corruption, present as they are to some degree in all political societies do not seem to negate the opportunities which Socrates gets to plead his case.
profound respect for his fellow citizens by treating them as rational adults rather than children or animals to be manipulated, coerced or ignored.

The Laws proceed to apply this argument directly to Socrates’ situation saying that the agreement that subsists between Socrates and Athens is more obvious even than most. Socrates has stayed within the confines of the city almost all of his life, excepting only when required to leave for military service. He never traveled to another city even to visit friends or attend a festival or see distant lands. They point out that he married and had children in the city, illustrating his approval of its laws and customs. Socrates could have left the city at any time during his long life if he felt that the system was so unjust that he could not support it. By his actions and his inactions Socrates has shown that he finds the laws of Athens good and that he has entered into an agreement with the city to be a faithful citizen. The Laws point out that when Socrates was given the option of going into exile at his trial he told the jury that he would prefer death to exile. It would be cowardly for him to change his mind now while the promised death looms close to him.

The final argument that the Laws offer is that if Socrates were to flee into exile he would not be able to continue philosophizing. Socrates’ process of questioning the traditional understandings of virtue and the traditional gods of Athens had always been controversial. His questioning was seen by many as an attempt to undermine the core values of the political community as well as its structure of authority. Aristophanes’ portrayal of Socrates as a man who teaches a son to beat his father captures very well the concerns which surrounded his teaching. Socrates had always maintained, however, that his questioning came from a desire to improve rather than destroy both his polis and his
fellow citizens. The Laws argue that were he to escape from his punishment he would
confirm the opinion of those who felt that he hated the values and practices of Athens and
was seeking to destroy them. By his act of escape he would be denying the authority of
the laws and the polis over its citizens. He would be suggesting that he does not
recognize political authority and regards only his own judgment. What civilized city, the
Laws ask, would allow such a firebrand into their midst?

If you go to one of the nearby cities –Thebes or Megara, both are well
governed – you will arrive as an enemy to their government; all who care for their
city will look on you with suspicion, as a destroyer of laws.

If he has no respect for the authority of the law, then there is no telling what
mischief he might get up to or what seeds of sedition he might sow. If Socrates were to
arrive in one of these cities and start up his philosophical questioning, he would soon find
himself in trouble and possibly condemned to death a second time.

The Laws also argue that fleeing to an uncivilized city would not work either.
The Laws suggest that Socrates will not find interlocutors in an uncivilized city who
would be able or even interested in engaging in philosophical investigations with him.
They ask:

286 To name but one instance, when it comes to assessing his own penalty after he has been found
guilty in the Apology, he suggests that he should be fed freely in the Prytaneum, the place in Athens where
Olympic victors were feasted. “And what do I deserve to suffer or to pay because I have deliberately not
led a quiet life but have neglected what occupies most people: wealth, household affairs, the position of
general or public orator or the other offices, the political clubs and factions that exist in the city? I thought
myself too honest to survive if I occupied myself with those things. I did not follow that path that would
have made me of no use either to you or to myself, but I went to each of you privately and conferred upon
him what I say is the greatest benefit, by trying to persuade him not to care for any of his belongings before
caring that he should be as good and as wise as possible, not to care for the city’s possessions more than for
the city itself, and to care for other things in the same way.” Plato, Apology in The Trial and Death of

287 Plato, Crito, 53B.
Or will you avoid cities that are well governed and men who are civilized? If you do this, will your life be worth living? Will you have social intercourse with them and not be ashamed to talk to them? And what will you say? The same as you did here, that virtue and justice are man’s most precious possession, along with lawful behavior and laws?\footnote{Ibid., 53C.}

The Laws contend that in places of “license and disorder” Socrates will not be able to pursue his philosophy. If men in these places do not even wish for positive law and civil order, how can Socrates expect to make them be interested in or desire moral order? Socrates’ whole philosophical process is based on questioning his interlocutors and making them see how their behavior does not correspond with their values or how several of their values conflict with one another.

Socrates’ encounters with those who seek only power and do not recognize any limits on their behavior in pursuit of that power are the least successful of his endeavors. Consider his debates with Thrasymachus or Callicles for example. His method needs a foundational instinct towards justice and a basic education in its principles, some respect for fairness towards those who are weak. In a disordered city where human beings are devoted for the most part to pleasure and material goods (as the Laws argue is the case in Thessaly), there will be few if any like minded individuals for Socrates to pursue philosophy with. The Laws argue here that philosophy needs a well-ordered political community even though it is often seen as a danger to that community. This final argument that the Laws present in favor of Socrates staying and suffering his punishment is, perhaps, the most important for Socrates himself. In the Apology, Socrates declares that the unexamined life is not worth living and that he would therefore rather be executed than cease to do philosophy. He indicates that going into exile is not really an
option for him because whatever city he went to he would be bound to get into the same sort of trouble. He says: “I should have to be inordinately fond of life, gentlemen of the jury, to be so unreasonable as to suppose that other men will easily tolerate my company and conversation when you, my fellow citizens, have been unable to endure them, but found them a burden and resented them so that you are now seeking to get rid of them.”

The reasoning that Socrates and the Laws both employ here is key to understanding the argument of the dialogue and Socrates’ decision to stay behind and face punishment. The philosophical questioning that Socrates engages in is often unpleasant and unsettling for his interlocutors. In order for it to succeed Socrates’ interlocutors must believe that he has their best interests at heart, that he wants to improve rather than destroy both them and the political community itself. Intentionality of this sort can be very difficult if not impossible to divine from the nature of the questions or criticisms themselves, especially when considered in isolation from their context and the person who is asking them. We can only judge the intentions of such a questioner based upon a continuing relationship with them in which we have leisure to observe their opinions and arguments as well as their actions in other contexts. If I do not trust that the observer desires my wellbeing, it may be difficult for me to see the justice of their claim. A lack of trust may lead me to dismiss this person’s criticisms without giving them their proper consideration. In addition, I may judge quite rightly that the person’s lack of familiarity with my character as a whole or the context of my actions may lead him or her to judge me wrongly. Moreover, I may be justly concerned that the

289 Plato, Apology, 37C.
person in question, not knowing me well, may take a particular wrong action as a sign that I am not a good person. Finally, I have no basis on which to judge whether or not this person is trying to hurt me or help me and therefore I may be inclined to treat their criticism as a sign of animosity or an attempt to undermine my confidence.

The reformative and critical nature of Socrates’ philosophical engagements makes social trust essential for carrying them out. The Laws rightly suggests that if the society of which he has been a part all of his life, which has seen his and judged his activities, for which he has fought and risked his life cannot trust his motivations then how can Socrates possibly be trusted in a place where he is a complete stranger? This is especially true considering the fact that he will arrive there on the run and under a sentence of death in the land of his birth. If his fellow citizens around whom he has lived his whole life and towards whom he must be thought to have some affection cannot believe in his benevolent intentions, how could some new society justify taking a risk on him. When he starts to question their behavior and criticize their values they will turn on him even more quickly than his own people did. Moreover, this behavior could not just be put down to some irrational emotional response to criticism. I mean to suggest, as the Laws do, that this inclination to reject the criticism of the stranger is a perfectly rational aspect of our general inclination to self-preservation. It may lead us sometimes to reject justified critiques of our practices and to ignore possible avenues of improvement, but it also protects us from those who would seek to destroy ourselves and our way of life. It is rational to consider intentions when judging the truth of a person’s pronouncements and it is rational to err on the side of caution when those intentions are fairly opaque (as all human intentions are to some degree).
Intentionality of the sort we are talking about is often more adequately revealed by actions than by words. As the saying goes “talk is cheap,” and it is easier to profess your good intentions than to follow through on them. Socrates, it is probable, hoped to prove his loyalty to Athens to prove the truth of the claim he has made all of his life that what he genuinely desires is to make Athens and its people better. By this final act of submission to authority he can illustrate the dependency of philosophy on the polis and his commitment to the good of his own polis. There is no possibility of a philosophical life outside of Athens for Socrates and he has no wish to continue to live if he cannot do philosophy.

In conclusion, I think we can draw the following conclusions about what I have called “Socratic patriotism.” Socrates has lived his entire life committed to discovering and living out the principles of justice. He recognizes that if he were to flee Athens to escape his punishment, he would be committing an injustice against a city which has served him well and to which he has dedicated his life. The kind of love of country Socrates illustrates by staying behind and taking his punishment is not a love which can be inspired by or is due to just any country. Through the arguments of the Laws of Athens, we can see several important limitations upon the obedience which they demand. Deference is due to the patria because of the role it performs in the lives of its citizens, supporting the marriage of their parents, educating them in justice, and providing them with basic security and material goods. In order to gain its superior “footing with regard to the right” a patria must also respect the rule of law and provide its citizens with a meaningful opportunity to persuade it. The patria must also offer to its citizens an opportunity to leave and relocate somewhere else if they do not find, when they come of
age, that they can support the understanding of justice to which the patria is dedicated.

Finally, the patria, when it gives its citizens a basic education in justice, provides the context that is necessary for engaging in what Socrates at least considers the highest of all human activities, the philosophical life.
CHAPTER 5:

OBJECT OF PATRIOTIC ATTACHMENT

Using the idea of Socratic patriotism which I outlined at the end of the previous chapter as a model, I will now go on to sketch the basics of an understanding of patriotism which is substantive and particular while at the same time limited by some basic universal propositions. In order to do this, I have adopted the division which Müller uses between the “object” and the “mode” of patriotic attachment. In the traditional definition of patriotism as love of one’s country, “country” is the object of the patriot’s attachment and “love” is the mode. In order to describe how patriotism comes about, how it manifests itself, and what its limits are, one must describe both the object and the mode in some detail. It is only in this way that we can see both that patriotism is not justified towards all states and that love of one’s country does not justify any and all activities on its behalf.

5.1 A Word About Terminology

An account of patriotism must, I think, begin with an account of the object of the patriot’s attachment. We must say what it is that the patriot is attached to and why that object is important enough to merit both the affection of the patriot and his activity on its behalf. It is only after we have done this that we can outline the characteristic behaviors of the patriot and offer a sketch of how patriotic feelings can be fostered and maintained.
There is one point about which it is important to be clear in the beginning. When people speak of patriotism today it is generally taken to mean a loyalty and affection towards the state of which one is a citizen. In this common usage the terms “state” and “citizen” are taken in the legal sense. State is taken to mean a geographic area with internationally recognized borders and government institutions which exercise control over that area. The status of citizen is also a legal category governed by the laws of a particular country.

It is important to note at the outset that I do not believe that patriotism in this sense can always be justified. There are several internationally recognized states today whose behavior towards their own citizens is such that loyalty to them is unwarranted. In the discussion that follows I will be outlining the proper role that a state should play in the lives of its citizens. This idea of the proper role of the political community will serve as a limiting factor on my understanding of patriotism. Manifest and continued failure to perform this role will weaken the state’s claim on the loyalty of its citizens until, at a certain point, such a claim ceases to exist all together. That having been said, given the nature of things, it is impossible for any state to perform this role perfectly and therefore some sort of failure must always be expected. The material point is that the claims made below will not necessarily apply to all currently existing nation-states and that therefore the defense of patriotism that I will offer will not apply to all legally defined citizens.

Before sketching out the proper role of a country in the lives of its citizens, however, it will be as well to begin with a word about terminology. Up until now it has been my policy to utilize in my analyses the terms employed by the authors under consideration. Nussbaum uses the term “nation” (and nationality) especially in her work *Frontiers of Justice*, although she sometimes uses “state.” Müller prefers the term
“constitutional culture” which has a special meaning in his theory. My own preference is for the terms “country” or “political community.” There are several reasons for this preference on my part. The term “state” is often understood in political science as an entity which successfully “claims a monopoly on the legitimate use of force within a given territory” and is recognized as legitimate by the international community.290 This term has a legalistic connotation which does not precisely track with my understanding of those entities which can be the object of patriotic affection and which can legitimately impose patriotic obligations upon their citizens. As I mentioned above, not all currently existing and internationally recognized states will qualify as such entities under my theory of patriotism. “Nation” also has a generally accepted meaning within political science. For the most part, a “nation” is understood as a group of people who share a common culture, common traditions, common origins, and a common history. This group of people may or may not be part of a self-determining political community but they do possess a common group identity.291


291 The Stanford Encyclopedia of Philosophy has this to say on the subject of “nations” and “nationalism”:

The term “nationalism” is generally used to describe two phenomena: (1) the attitude that the members of a nation have when they care about their national identity and (2) the actions that the members of a nation take when seeking to achieve (or sustain) self-determination. (1) raises questions about the concept of nation (or national identity), which is often defined in terms of common origin, ethnicity, or cultural ties, and while an individual’s membership in a nation is often regarded as involuntary, it is sometimes regarded as voluntary. (2) raises questions about whether self-determination must be understood as involving having full statehood with complete authority over domestic and international affairs, or whether something less is required.

It is traditional, therefore, to distinguish nations from states — whereas a nation often consists of an ethnic or cultural community, a state is a political entity with a high degree of sovereignty. While many states are nations in some sense, there are many nations which are not fully sovereign states. As an example, the Native American Iroquois constitute a nation but not a state, since they do not possess the requisite political authority over their internal or external
Alternatively, a political community as I understand it is a group of people who are dedicated to a common understanding of the political end and pursue that end together in a specific time and place through the creation of specific institutions, traditions, laws, and practices. What precisely I mean by this will become clearer as the argument progresses, but for now I can offer a general understanding. First, a political community has to exist somewhere in the physical world; it cannot simply be an “imagined community.” A political community acts in the world; it creates rules to govern itself and is capable of coming to general decisions about how to act both internally and externally. A political community must have institutions but these do not necessarily have to be formal institutions. I am thus including under the heading of institutions traditions, customs, practices or generally accepted ways of acting and coming to decisions.

A political community must be dedicated to some understanding of justice in the relations of its citizens to one another and to outsiders. I do not mean to suggest, however, that the possible “understandings” of justice are infinitely variable. Justice, as I understand it, means a belief that relations among human beings should not be governed by the principle of “might makes right” or “the advantage of the stronger” as Thrasymachus once famously declared. When relationships among people or between people and their government are entirely characterized by fear and coercion, a political community cannot be said to exist. Its governing institutions need not be democratic in affairs. If the members of the Iroquois nation were to strive to form a sovereign state in the effort to preserve their identity as a people, they would be exhibiting a state-focused nationalism.


292 Plato, Republic, 338C.
nature but there must be some mechanism (formal or informal) by which individual citizens can express their opinions and grievances to the government. A political community need not be completely self-determining but it also cannot be entirely a creature of another larger entity. I often use the term “country” interchangeably with “political community” because of its connection to a specific geographical area and because it is neither so specific nor so time-bound as the term “state.” Country can, however, be understood as applying to a rather large geographical area as opposed to a city or a polis. Therefore, “political community” as the more general term is preferred.

5.2 Patriotic Attachment and the Role of the Political Community

How then are we to describe the proper object of patriotism? What is it about a country that makes it merit the loyalty and affection of its citizens? Why should we be expected, at least some of the time, to sacrifice our own interests to protect and maintain our own political community? Martha Nussbaum, as we have seen, contends that patriotism, when it exists, is simply an unreflective and irrational love of the familiar. People naturally develop an affection for their own familiar surroundings and practices and tend to believe that their way of doing things is good without any knowledge of the possible alternatives. On the other hand, I have argued that habit, familiarity, and the passage of time are not enough to secure affection towards any object. In order to develop affection for an object a person must experience it as good. A person must have an experience (or many experiences) specifically associated with the object in which the object performs its function well.
Relationships to people and places are governed by the same principle. Friendship is not the natural outgrowth of acquaintanceship. A person must perform the role of confidant and supporter and must conform to the norms of that role if we are to regard them as a friend. If a parent is abusive and neglectful then that will impede the development of parental and familial affection in general. For a child to develop some affection for his or her parents that child will have to experience his or her relationship with the parent as in some way good. In a like manner, proximity and the natural desire for familial relations will tend to make people seek out the good in their parents or children and turn familial affection into the default position. The better acquainted we are with a person the more likely we will be to experience their good qualities, however few they may be. But severe abuse and neglect can completely undermine this natural inclination. The less acquainted we are with a person, on the other hand, the less likely we will be to forgive or ignore failures to perform their proper roles in our lives.

This is not to say that human beings cannot love things that are, on the whole, bad for them. Human beings can love things that are bad for them because they can be mistaken about the nature of the object in question in several ways. The first and most obvious case would be that of intentional deception. A person can fall in love with someone who is a destructive or abusive person because that person intentionally deceives them as to the nature of their character. Deceivers of this sort are well-known in literature – think of Clarissa and Mr. Lovelace or the novels of Henry James to name but two. But even in such a case I would suggest that the love that the deceived has for the deceiver must still be based on some experience of the good. In order to implant an image of goodness into the mind of the person he or she wishes to deceiver, the deceiver
must act in a positive manner towards that person. Mr. Lovelace courts Clarissa, treats her kindly, considers her interests and wishes above that of her family. The person who is deceived makes the mistake of taking those good actions as representative of the character of the person or of not observing the person’s behavior well enough to discern his or her genuine intentions.

The case of the person who loves their abuser can also be explained in a similar manner. Abusive relationships often take the form of a cycle of abuse and kindness. Physical or mental abuse is followed by professions of contrition or promises never to repeat the incident or even insistence that the abuse is the victim’s fault. As the relationship continues over time instances of kindness may become less and less frequent but at that point extricating oneself from the relationship has become exceedingly difficult. The victim in this case is aware of the abuser’s bad qualities but makes the mistake of assuming that it is the kindness rather than the abuse which is truly representative of the abuser’s character. One hears such excuses as “She’s not really like that” or “He’s really a good person underneath.” The victim’s love for the abuser is still based on some good experiences and they often consider the abuse as something which just has to be put up with. The victim desires something which is good (companionship, material support, etc.), but is mistaken in his or her judgment that this relationship is really conducive to that end.

Both of the mistaken judgments I have discussed here could, perhaps, be described as mistakes about the relationship between parts and wholes. Perfection is something outside of all of our experiences, every relationship has flaws, every person has failings and no object completely fulfills its proper role in our lives. Yet, we are
sometimes called upon in our everyday lives to make judgments about objects and persons as a whole, to consider whether given their failings they are overall a good person or given its weaknesses whether an object is on the whole conducive to its end. These sorts of judgments are much easier to make at the extremes then they are in the middle. Moreover our experiences will always affect not only our ability to make such judgments but also the truth or falsity of such a judgment. Even at the extremes, with a physically abusive relationship for example, past bad experiences can lead to disastrously mistaken judgments. (Those who get stuck in abusive relationships as adults were often abused as children as well). The material point is, however, that even the victim’s love for his or her abuser is founded in some experience of the good.

Therefore, affection towards a person or an object is not explained by reference to familiarity alone. In order to develop affection we must experience that person or object as in some way good, as fulfilling their proper role in our life. If we do have experience of the object of our affection as good, then that affection is not fundamentally irrational, nor is it the result of simple familiarity. In a like manner, if affection for and likewise desire to promote the good of one’s country is to be considered rational (and therefore morally justifiable) it has to be understood as something more than a love of the familiar. This can only be true if a country has a specific role to perform in its citizen’s lives, one that is conducive to their flourishing. In addition, affection for a country will only be rational if the country does in fact perform that role for the most part well and if the citizen experiences it as good and associates that experience with the proper object. If therefore, we are to answer the question of why patriotism is good and what exactly it
requires we must begin with an understanding of the proper role that a country or state is supposed to play in the lives of its citizens.

5.3 The Political Community as a Mutual Security Pact

When questioning the importance of the state in human lives the answer that, perhaps, springs most readily to mind involves the issue of physical security. Hobbes and Locke among others suggest that the importance of the state lies in its ability to protect its citizens from the “inconveniences” or downright brutalities (in the case of Hobbes) of the state of nature. In the state of nature, when no common authority exists over human beings, a person’s life and property are only as secure as their physical ability to defend them from the advances of others. The lack of security for both person and property, prompts the people to leave the state of nature, sacrifice some of their rights, and form a state by means of the social contract. The merits of their overall theories aside, Hobbes and Locke are surely not wrong to suggest that one of the state’s primary functions is the physical protection of its citizens both from each other and from outside enemies. People band together for physical protection of their lives and their property because there is strength in numbers. Only when one is relatively secure in this regard can one be free to engage in other pursuits, like child rearing or the investigation of truth or the pursuit of beauty. The formation of states with the ability to command the legitimate use of force and therefore to make the pursuit of physical survival less demanding for its citizens helps to free human beings to engage in those more elevated pursuits which give our lives meaning.
No state will be able to offer complete security of body and property to its citizens. No system of policing can ever prevent all crimes and no army or foreign policy, however well crafted, can prevent all wars. It is important to note here, as will be true throughout this explication of the proper role of the state, that imperfections must be tolerated. To demand perfection in this role is just as unreasonable as demanding perfection in a parent or a friend. As human institutions, states and their governments are subject to all the flaws of the human condition. That having been said, providing security and physical protection to citizens is the first task of a state. Security may justly be said to be a necessary, but not sufficient condition of political life. If a state manifestly and repeatedly fails to provide basic security to its citizens or turns its forces against its own people in an arbitrary manner, it can be said, I think, to be failing to perform the most basic aspect of its role, like a car that does not run or a house that does not keep out the elements. In such a case, the likelihood that a person will develop an affection for their country is greatly reduced.

A common trope in popular literature is to imagine what would have happened if the United States and her allies had lost World War II, and been taken over by Germany. In this example the laws and constitution of the United States are no longer in effect, the boundaries of the United States have been completely altered and its government no longer exists. In this case, the United States as a political community no longer exists to impose an obligation upon its former citizens or to be an object of their loyalty. There are other communities that still exist, however, towards which one could

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293 See for example: Philip K. Dick, The Man in the High Castle; Eric Norden, The Ultimate Solution; Harry Turtledove, In the Presence of Mine Enemies; Robert Harris, Fatherland.
be loyal – neighbors, cities, families, and perhaps, a nation with a common language, a common culture, and dedicated to common universal principles. It would probably still be appropriate to give loyalty to this group in order to try to reestablish the country of the United States, especially considering the morally unacceptable values of the Hitlerite German state. The group of people who were formerly citizens of the United States will still exist for a time, but will gradually die off. Over time as people are educated and raised under German principles the question of patriotism will arise with regard to the relationship between the German country and the people of the former United States. No political community is immortal. Throughout the history of the world many different political communities have come into being and eventually ceased to be. This happens for a variety of different reasons, but one of the most common ways in which it happens is through conquest. If a one country has been taken over by another, if its government has been destroyed and its laws ceased to operate, if its people are no longer able to act together as a political whole, then that country has ceased to be. It can, properly speaking, no longer be the object of patriotic attachment.

This situation is not precisely analogous to the situation of occupied France during World War II or the portion of Columbia that was until recently under the control of the FARC. In both cases the France and Columbia still maintained a recognizable government actively fighting to maintain control of their traditional geographic territory and to provide protection and security to their citizens. Until such time as fighting is concluded with a clear victor, it cannot be said that Columbia and/or France have ceased
The question of the obligations of those citizens living in the occupied territories is a bit more complicated. Their own political community has not ceased to exist, but it has manifestly failed to provide them with security and they are no longer able to participate in political activity with their fellow citizens. In such a case, a citizen may justly reduce his or her circle of concern to include only family and neighbors. He or she will still be under a general moral obligation to resist injustice but would probably not be obligated to respond to the demands of the government in the same way. As we shall see, obligations to one’s country arise in part out of the role which that country played in one’s education and upbringing, and thus patriotic obligations will not entirely cease over night as a result of a failure to provide security.

One might argue that the security providing role of a country is sufficient to secure the loyalty of its citizens and therefore to provide stability to the country as a whole. Through providing security and peace of mind to its citizens a country opens up a space for them in which they are free to pursue whatever might be their particular life plan, whatever pastimes they feel will give their lives meaning. Without such security they would not be able to live a truly human life, as Martha Nussbaum is fond of putting it. Therefore, it is in the best interests of the citizens of a country to contribute to the maintenance of its institutions both with money and labor. This argument works, but does not, I would argue, get you very far. In the first place, it is certainly in the best interests of every citizen that the country is able to continue protecting their lives and their property, but it is not necessarily in the best interests of any individual citizen to

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294 Interestingly, the plan which Columbian president Alvaro Uribe instituted in order to attempt to rid Columbia of the FARC was named “Plan Patriota.”
sacrifice his time or his resources to ensure that it does so. In other words, this formulation of the obligation of citizens in terms of enlightened self-interests creates a classic example of the free rider problem.

Moreover, while it may be in the interests of a citizen to give time and money (especially if coerced by the government) it can certainly never be construed to be in his interests to sacrifice his life for his country. Hobbes himself recognizes this problem when he grants individual citizens the right to run away from battle when they have been conscripted into the army or to resist the forces of the sovereign when they come to execute him. The social contract is formed in order to preserve the lives of individuals, and therefore an individual cannot be construed to have contracted away his life. It can thus be seen that this formulation of the relationship between a citizen and his country is self-contradictory. A country cannot provide security to its citizens, either from each other or from outside sources, if it cannot convince its citizens to sacrifice their lives in this pursuit. Yet, if the only thing holding the people together is long term self-interest, then there is no reason why any one of them should agree to give up his life for the others.

A mutual self-interest pact is clearly not enough to justify an individual citizen sacrificing his life for his country – the archetypal act of patriotism. In addition, however, the idea of mutual security pact and long term self-interest does not seem to adequately capture the phenomenon of patriotism as we encounter it in our everyday lives. Patriotism involves a feeling of connectedness with our fellow citizens, a recognition that we have some sort of special relationship with them, a feeling of pride in our country and our collective achievements, a sense of being a part of some larger whole
which existed in the past and will exist in the future. Moreover, the argument from long
term self-interest is future directed; it involves how one should act in the future if one
wants to continue pursuing one’s life plan. This is part of the source of its limitations.
After a person is dead, there is no future that is of any interest to that person, and
therefore the survival (or lack thereof) of his country is of no concern to that person. If,
on the other hand, one thinks of a political community as an entity that extends not only
through space but also through time, then there is a sense in which we can be understood
to have an obligation to repay to future generations what we have received from past
generations. Even this understanding of the relationship between a patriot and his or her
political community does not take us quite far enough. As we shall see in the next
chapter, the notion of giving to future generations something more than what we
ourselves have received can only be explained by understanding patriotism as a form of
friendship rather than a relationship of justice.

5.4 Patria as Parent

In the previous section, I have suggested that the first role of a political
community is to provide basic security to its citizens by maintaining control over its
territory and protecting its citizens from foreign invasion. If a political community fails
to do these things, then it is no longer a functioning political community and no longer
the proper object of a patriot’s affection. I have further suggested, however, that
understanding a state simply as a mutual security pact is not sufficient to explain the
phenomenon of patriotism as we generally encounter it. The argument for supporting the
state through enlightened self-interest is not sufficient to justify sacrificing one’s life for
one’s state. Moreover, this description does not encompass all of the various roles that a political community fulfills in the lives of its citizens. It, therefore, cannot explain what motivates a citizen to improve his or her political community or what obligations towards it he or she may have. We must therefore delve further into the role of the political community in order to offer a justification for patriotic sentiment and action.

It is in this context that the analogy which the Laws make in the *Crito* between the role of parents in the lives of their children and the role of patria in the lives of its citizens becomes relevant. The Laws contend that the patria plays a similar, although ultimately more important, role in the lives of its citizens than their parents do and that for this reason the patria and its laws should be respected and obeyed. Both parents and patria provide people with physical security, to be sure, and the patria like parents often also provides for other material needs such as shelter and food. By the time that an individual gets to the point in her life where she is able to examine her obligations and make choices about how to act and how to live her life, her parents and her patria have already provided these services for many years. The individual in question did not ask for these services, but she certainly needed them and was provided with them.

The political community, as we have said, must provide, to the best of its ability, both internal and external security. In addition, I would venture to suggest that the political community should attempt to see that the majority of its citizens are provided with basic food and shelter. It will not be able to do this for all citizens and, moreover, I do not mean to suggest that government institutions should be the primary providers of these bodily goods. However, in exigent circumstances a political community should attempt to provide for those who cannot provide for themselves. For example, a political
community would not be fulfilling its role if in a time of famine the people with access to food simply allowed their fellow citizens to starve in the streets. The political community, as we have said, consists of both citizens and institutions and is not, therefore, synonymous with the government.

This basic attention to the physical needs of its citizens extends beyond simply food and shelter, however. In the *Crito*, the Laws argue that Socrates is their offspring because they structured the institution of marriage through which his parents gave birth to him. Like the Laws, I would argue that the political community must act in order to preserve its population by promoting marriage and procreation. A political community must look not only to the physical needs of its present population but must also look to continue its existence in the future. A political community, as it is understood here, persists through time apart from the actual life and death of any of its individual citizens. It must concern itself with the present, the future, and, as well shall see, the past. Every generation that is born is indebted to the previous generation for maintaining the practices and institutions that allowed them to be born and to be educated. Likewise, every generation has an obligation to maintain those practices and institutions into the future for the benefit of those who will come after them. A political community must maintain laws and practices which recognize and support the family, which is the primary apparatus by which children are born and raised. A society which forbids marriage or severely limits it, which requires or strongly encourages people not to have children, or which practices unhealthy population control measures is not performing its proper
Thus, basic preservation of a political community involves more than just security, food, and shelter. Preservation requires that the political community consider the birth of the next generation and the continuation of the community into the future.

The preservation of a human political community involves more than just the material needs of its present citizens and the birth of future generations. In their argument against Socrates, the Laws invoke more than just their role in marriage and the birth of children. They go on to claim that they have had a role in the education of all of their citizens. Human beings are naturally social, but their communities are not structured by instinct like those of the animals. Each bee in a hive knows instinctively what role he or she is to perform in that community and how the relations between the different parts of the community should be structured. Every beehive functions in the same way and the bees have no choice in the matter. Human beings, on the other hand, must work out for themselves how to structure their communities, how to make it so the parts function harmoniously and the community is able to survive into the future.

Moreover, human beings must choose to participate in the proper functioning of the community because they are not ruled by instinct. The proper ordering and structure of a human community, that which allows it to survive into the future and its citizens to

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295 There are many examples of states which do not adequately fulfill this role at the present time. China’s “one child policy” together with a societal preference for male children has led to a wide range of social problems. According to a 2005 article in the New England Journal of Medicine the current fertility rate in China is about 1.7, well below the replacement birth rate of 2.1. In addition, the sex ratio between male and female births has increased to 1.17 (the average being 1.03-1.07 for industrialized countries) leading to a marked decline in the percentage of females in the overall population. Hesketh, et al. “The Effect of China’s One Child Family Policy After 25 Years,” NEJM, Vol. 353: 1171-1176. In addition, the vast majority of countries in Europe are operating with below replacement level birth rates with all the EU countries together having an average rate of 1.53 (Population Reference Bureau, European Demographic Data Sheet, 2008). There is a great deal of speculation over why this precipitous decline in fertility rates is occurring in Europe but there is no doubt about the deleterious effect that an aging population has on the economy and security of a state.
pursue their proper ends, is what we shall call justice. It is an education in the principles and practices of justice that a political community must provide to its citizens if it is to survive. Thus, an education of this sort is essential to our understanding of the proper role which a political community must play in the lives of its citizens.

The basic character of justice, as I understand it, is that it is future-oriented and thus order-giving. In general, we may say that that which preserves the community in question, that which furthers its existence into the future, is just. Justice thus gives order to and structures the roles of the various individuals in the community and regulates their relationships with one another. This order often takes the form of rules or laws for governing behavior. However, the character of laws is such that they cannot always deal with the exigencies of circumstance, and therefore following the established rules of a community will not always tend towards its preservation. Justice can thus sometimes mean acting outside of or in contradiction to the laws or rules. Justice can be understood to apply (at least analogously) to human communities of all shapes, sizes and durations. There can be familial justice, neighborhood justice, friendship justice, justice between strangers, justice between countries, or justice between enemies, to name but a few. The point is that the behavior which justice requires is that sort of behavior which tends to preserve the community in question and to allow it to fulfill its end.

296 “In one of its senses the term ‘just’ is applied to anything that produces and preserves happiness or the component parts of happiness, of the political community” Aristotle, *The Nicomachean Ethics*, trans. H. Rackham (Cambridge, Mass: Harvard University Press, 1999), 1129b18. Here Aristotle is speaking about what he calls general justice.

297 For example, think of the rules of hospitality that governed the treatment of guests in the ancient world. Cities and other settlements were often widely separated geographically and there was no overarching power to police relations between them, and yet people still wanted to be able to travel and engage in intercourse and trade with one another. Thus, the elaborate rules of hospitality were gradually adopted in order to make such activities possible. Guests had to be treated with respect and not harmed in order to allow for the preservation of community between various cities or families. The only way to
The rules of justice will vary depending on many different factors including the type of community involved, the purpose of the community, the traditions of a particular people, the practical circumstances involved, and accidents of history, etc. Not all of the rules actually set up will be essential to the preservation of the community and some may not promote that preservation effectively in all cases. For example, the hospitality rituals of the ancient world were often very elaborate involving specific rituals and various specific terms and designations. However, there are some general principles of justice which we can deduce from the common character of human beings. Following Aristotle, I would suggest that the basic principle underlying all rules of justice is the attempt to establish some sort of equality (arithmetic equality or proportional equality) between two individuals or between an individual and some sort of good. The equality in question can be proportional to the desert of the individuals (distributive justice) or can serve to redress an imbalance caused by the action of one of the parties. The standards of desert and the distributions of goods which represent the balance to be restored will vary from society to society, but the basic idea is to establish an equality between persons who similarly situated with regard to the good in question.298

ensure that all people would be able to continue to travel and trade was for every individual to treat their guests according to the rules and for violations of the rules to be severely punished.

298 “Justice is that quality in virtue of which a man is said to be disposed to do by deliberate choice that which is just, and when distributing things between himself and another or between two others, not to give too much to himself and too little to his neighbor of what is desirable, and too little to himself and too much to his neighbor of what is harmful, but to each what is proportionately equal; and similarly when he is distributing between two persons. Injustice, on the contrary is excess and defect, in the sense that it results in excess or defect: namely, in the offender’s own case an excess of anything that is generally speaking beneficial and a deficiency of anything harmful, and in the case of others, though the result as a whole is the same, the deviation from proportion may be in either direction as the case may be” (Aristotle, Ethics, 1134a1-11).
Perhaps, the most familiar principle of justice, which we can deduce from the general description offered above, is the idea that in political and social relationships might does not make right. Aristotelian understanding of justice recounted above suggests that the distribution of goods should be carried out among persons based on some characteristic or trait which they possess that is relevant to the good in question. Thus, for example, food should be distributed on the basis of need and prizes for flute playing on the basis of who is the best musician. Neither food nor flute prizes should be distributed on the basis of who is the most beautiful or the richest. If the only end of the political or social community was security, then it would make sense to distribute political power on the basis of strength or arms. But as we have suggested, there are many ends that a political communities must serve that extend well beyond security. The same can be said of other types of communities such as social and familial groups. The idea here is that a just distribution of power within a community will depend on the end that the community is designed to pursue.

The only way in which the principle of the rule of the stronger makes sense is when interactions are considered between individuals totally in isolation at one and only one fixed moment in time. When two animals meet alone and fight each other whichever is the strongest at that moment in time will win. Some game theoretic models attempt to portray the outcome of human interactions in this way, modeling an interaction between two human beings with fixed amounts of resources contending at only one point in time. Yet, this does not accurately represent the situation that any human being ever finds himself or herself in. Every human being is a part of some (usually many) groups and never stands entirely alone. Even if I only encounter or interact with a particular person
once in my life the human mind is such that I will remember and learn from that interaction.

Consider, for example, two total strangers, John and Jane, who meet in the woods one day. How can we think of them as part of a community and how can we understand the rules of justice as acting to preserve that community? Well, if John and Jane fight each other right there in the woods then whichever individual has the greater physical and mental resources will win. However, that is not the end of their encounter. John and Jane have never met one another but they are both part of some other communities of family or friends or citizens. If John kills Jane, then Jane’s family and friends will probably seek revenge upon John and his family and friends. Thus, we can see how John and Jane’s behavior does not act to preserve the community which encompasses their two families. But even if no such revenge occurs John will learn from and remember his interaction with Jane. John and Jane are part of the worldwide community of human beings and the next time John meets another human being alone in the woods he may attack that person out of fear. The perpetuation of fear among human beings destroys this worldwide community.

Thus, even though John and Jane’s encounter was only of the briefest kind we can see how they are part of various communities and how the inclination to dominate and attack others is destructive of those communities and therefore unjust. The basic requirement for a community to be just, therefore, is that its relations be ruled by some principle other than brute force and violence. With an ever present fear of violence and attack no community can continue to exist. One of the most basic obligations in justice is, therefore, not to harm others unprovoked. When we say, then, that a political
community must educate its citizens in justice we are saying that it must teach them, at a minimum, this basic principle and organize itself internally and externally according to this rule.

In addition, we can see how various other rules, obligations, and structures can be added to our idea of justice depending on the kind of community involved. If Jane lets John into her home, both must consider how the community of the home is to be preserved into the future even if John’s residence there is only temporary. If Jane lets him into her home then she is letting him into a community dedicated to preservation, peace, and the education of the young. It would not be preserving of that community for Jane to refuse John food or force him to sleep outside in the cold. Over time customs and traditions will evolve around the practices of greeting strangers and letting them into one’s house. These practices will probably vary widely from place to place but as long as the rituals tend to the preservation rather than the destruction of community we can consider them to be a part of justice. Even things such as handshakes, formal words of greeting and social mores are all designed to remove the fear from meeting strangers and to preserve existing communities. These rituals of hospitality may seem trivial, but they are an important part of the preservation of the community between hosts and guests and thus the worldwide community of human beings.

No community can survive or pursue its end without the imposition of order and structure. Parents and the political community teach children about the rules of justice that govern behavior within those communities both through example and through explicit lessons. In so doing, they provide a lesson which is essential for the pursuit of any individual life plan. Human beings are naturally social and tend to form groups in
order to pursue their various interests and ends. Moreover, no human being can be happy when completely isolated from others; human beings need relationships, companions, and friends. A human being cannot develop his or her rational faculties without speech, communication and interaction with others. By inculcating the lessons of justice, parents and the political community give to children and citizens the tools that they need to form and to maintain communities and relationships of all varieties. Parents enforce the rules of justice within the home and the patria enforces them between households and citizens.

Justice can, in general, be described as that which preserves the community and we can come to certain general conclusions about what these means based on our understanding of human nature. The first obligation of justice is that one should not harm another person unprovoked. One might also draw other conclusions about the requirements of justice as well: that oaths and promises should be kept, that personal property should be respected, that punishment for crimes is necessary but that cruelty and torture should be avoided. However, none of these rules is absolute because judgments about the requirements of justice must be made in concrete circumstances. As Plato famously points out, keeping one’s word and respecting the property of others is important, but it is still not just to give a crazy man back his sword. Moreover, when it comes to the organizing principles of a political society, whether it should be democratic or aristocratic or monarchic, whether it should be capitalist or feudal, the general principles of justice give no definitive answers. There is the potential for a society organized along any of these structural principles to function well and to perform its necessary role in the lives of its citizens.
Thus, the lessons of justice learned from parents and the political community will usually come in the form of particular and concrete instantiations of the general principles of justice. Over time a country will develop rules for the distribution of material goods and for transactions between citizens. Justice in general may dictate that a political community cannot allow a large portion of its citizens to starve in the streets, but it will not tell us what level of subsistence is necessary for its citizens to have the liberty to pursue their various ends. Justice is that which preserves a human community and therefore the requirements of justice will alter depending on the currently existing character of that community, its end, and how, given the circumstances, it can be preserved. Justice in a community dedicated to the pursuit of flute playing will require that preference be given to the best flute players and that non-flute players are excluded. The point of all of this is not merely to point out that the specifics of justice will differ from place to place, but also that the expectations which citizens have about the requirements of justice will differ as well.

This may seem a trivial point but it is essential to understanding the connection between an individual and the political community in which he or she was raised. An individual’s understanding of what justice entails will inevitably be shaped by the concrete rules of justice at work in the society in which he or she was raised. Therefore, that individual’s perception of the legitimacy of a government and the extent of his or her liberty will also be shaped in this way. Legitimacy is not synonymous with the perception of legitimacy, but surely one cannot dismiss the opinion of the individual involved entirely. To use a rather frivolous example, in some societies lining up or forming a queue in order to obtain some service is considered to be a just way of
organizing social relations. Even when there is no official line people in these societies generally recognize a principle of “first come, first serve.” If a person from such a society were to travel to a place where people do not form lines and instead all push forward in a group, he or she would probably resent the injustice of it and resent the other members of the group, whereas, someone raised in that society would think nothing of it. To use a more obviously political example, Great Britain has a very open immigration policy and very strict gun possession laws. They prefer to deal with their internal security issues by having fairly lax privacy laws; CC TV cameras are placed for surveillance on most city streets and it is fairly easy for law enforcement to obtain permission to wiretap. In America, on the other hand, most citizens would feel that the inability to own guns and the presence of police monitoring on public streets to be an unacceptable restriction of their liberty. No society can give complete liberty to its citizens and still maintain order and security, but citizens’ perceptions of what the proper relationship between liberty and security should be will inevitably vary based on their experience.

This is not to say that rival interpretations of the requirements of justice cannot be judged to a certain extent. All of these specific requirements must be judged in relationship to the end of justice, which is the preservation of the community. The effectiveness of personal gun ownership vs. extensive police surveillance in the prevention of crime could certainly be assessed. But no system will ever be completely effective and certainly citizens’ varying perceptions of their own freedom will affect their ability to pursue their interests and live a flourishing life. Moreover, I would suggest that a particular government or form of government cannot be legitimate if none of its citizens
believe it to be legitimate. The material point is this: a citizen’s education in justice at the hands of both his parents and his country comes in the form of an education in concrete, society specific, practices. If those practices are genuinely just, i.e. serve to preserve and maintain the community, then they will reflect certain general principles. However, a citizen encounters and learns to negotiate the boundaries of his or her freedom within a particular context. The citizen forms his or her expectations of others and of the political community as a whole based on these lessons and this context. Thus, the education that a citizen receives in justice creates a lifelong connection between himself and the political community in which he was raised. Moving to another political community which negotiates the boundaries between freedom and security or between justice and injustice differently will necessarily make the citizen feel constrained. A citizen will, in effect, lose some of his freedom because he can no longer do those things which he has been used to. Moreover, a new society will be constraining because a citizen will have to relearn and rediscover the limits of his behavior and to tread carefully while his adjusts to his new situation. Adjustment is, to a certain extent, possible, but I would suggest that the impressions that we form early in life about the proper scope of our liberty and our participation in public life have a profound formative effect on our judgments, our reason, and our desires and that therefore they can never be in entirely cast off.

The specific practices of justice which structure the relationships of citizens and order different communities will be shaped over time by the exigencies of circumstance, traditions and reinterpretations of traditions, historical events, etc. The particular form that justice takes in any society is thus, to a certain extent, an accident of history, but this does not, as Martha Nussbaum would argue, render such differences morally irrelevant.
The fact that I am a member of this family or that neighborhood is a matter of accident, but the fact that I am a member of some family or some neighborhood is not. There are a multitude of different ways to impose order and structure on human relations in conformity with the principle that the stronger should not dominate the weak. The point is that this principle must be concretized in some fashion or another. It is the concretization or specification of the general principles of justice that allows for a community to function. Individual rules or practices will not make sense when divorced from the system as a whole and considered separately. And when it comes to making judgments about the justice or injustice of a particular practice it must be considered in its relationship to the functioning of the whole. By this accounting it would not make sense to ask whether a parliamentary system is more just than a presidential system or whether proportional representation is more just than single-member districts. Moreover, a single practice or ritual or tradition may seem insignificant, ineffective, or manifestly unjust, but it must be considered in terms of its history and its relations to the system as a whole.

I have argued here that both parents and the political community educate people in the principles and practices of justice. Parents do this through the direct education of children and the ordering of their relations with others in the home. The political community does this through regulating the relationships between adult individuals in conformity with the principles of justice, as well as by setting up educational norms and expectations and sometimes inserting itself into the relationship between parent and child. The common values and practices of justice are maintained by the institutions of the political community so that every parent does not have to begin anew. Over time through experimenting with different practices the political community as a whole accumulates
wisdom and can pass along this wisdom to future generations through traditions and institutions which last beyond the lifetime of any individual citizen. The continuation and reinterpretation of a political community’s various traditions and rituals not only gives us a feeling of connection to the past, a feeling of being a member of a community which persists through time, but also allows us to take advantage of the accumulated experience of previous generations.

Both parents and political communities accumulate wisdom through experience and trial and error. And it is reasonable for both children and citizens to take that experience into account and err on the side or respecting the judgment of those who have accumulated experiential knowledge of how to live well. Thus, the Laws’ demand that Socrates respect and revere them even more than a parent is not simply based upon the idea that Socrates owes them an obligation based on services they have rendered him in the past. Socrates argues in the first part of the *Crito* that one should pay attention to the opinion of the person who has knowledge in a certain area rather than the ignorant opinions of the masses. The man who wishes to improve his body should pay attention to the instructions of the doctor and the gymnastic trainer. Both the doctor and the gymnastic trainer obtain their knowledge of what is good for the body through the accumulated experience of a lifetime of trial and error. They are also educated in the practices of medicine and gymnastics which incorporate the collective wisdom, the collective experience, of other doctors and trainers who came before them. The Laws of Athens might be viewed in a similar manner. They do not represent simply the accumulated opinions of the mass of Athenian citizens. Rather, they represent the accumulated experience and wisdom of generations of Athenian citizens who have tried
to govern themselves well. Any one individual in his or her lifetime cannot accumulate anything like that level of experience.

It is true that the laws of any political community often codify the prejudices and mistakes of previous generations of citizens as well as their wisdom and experience. It is therefore generally acceptable to try to filter out these mistakes by means of a rational examination of the laws by every new generation of citizens. However, wisdom embodied in the laws cannot always be explained to every individual or articulated in a logical manner. Our rational capabilities differ and we cannot always imagine the various circumstances in which a law might be useful or even sufficiently understand the way in which the laws and practices of our political community shape our own expectations about justice. The point is not that laws should never be changed or that traditional practices cannot be criticized. It is rather that an individual should always be cautious about what he or she can genuinely know about what justice requires. An individual should practice deference towards those with more experience as a child must defer to the wisdom of a parent.

Thus, in this section I have argued that the proper role of the political community in the lives of its citizens extends beyond the realm of security into the areas of nurture and education. A political community must see that its citizens have some basic material goods which are necessary for the survival of all human beings. And the political community must also support the family and the procreation of children among its citizens. But more than this, the political community also must provide for its citizens to have a basic education in justice. Justice is constituted by those practices which preserve and maintain the existence of all types of communities. There will be many different
specific rules of justice depending upon the end which those communities are designed to serve and the particular customs, traditions, and institutions which have grown up over the years. However, the basic principle of justice that must underlie all of these rules and with reference to which they can be judged is the idea that distribution and commutative must be based upon the establishment of some form of equality between individuals or between an individual and a certain particular good.

5.5 Ruling and Being Ruled: The Patria as a Community of Rational Beings

I have thus far made frequent use of an analogy between the relationship of parent to child and the relationship of citizen to political community. This is an analogy that the Laws use in the first section of their argument on behalf of Socrates staying behind and being executed. I have suggested that like a parent, the political community, has a proper function that it should perform in the lives of its citizens, and, moreover, that citizens like children develop an affection for their political community if they experience it as performing its role well. I have likewise argued that citizens like children are under an obligation to their political community for past services rendered and that those services

299 The phrase “ruling and being ruled in turn” comes from Aristotle’s discussion of the different types of rule in book I of the Politics. Aristotle maintains there is a difference between political rule (which is the rule between equals) and despotic rule (which is the rule of the superior over the inferior). “And even from these considerations it is clear that the authority of the master over the slaves is not the same as the authority of a magistrate in a republic, nor are all forms of government the same, as some assert. Republican government controls men who are by nature free, the master’s authority men who are by nature slaves; and the government of a household is monarchy (since every house is governed by a single ruler), whereas statesmanship is the government of men free and equal” (1255b16-21). In political government (πολιτικαίς αρχαῖς), “the ruler and the ruled interchange in turn” (1259b5). Later on in book II, it becomes clear that Aristotle thinks of” ruling and being ruled in turn” as actual rotation of governmental offices among various people and he therefore associates it only with a democratic institutional structure (see 1261a-b). I understand the idea of “ruling and being ruled” to be at the heart of the political relationship and that which distinguishes it from paternal or despotic rule. However, as we shall see, I also understand it to encompass more than just rotation of offices.
include not only peace and security but also an education in justice. Finally, I have argued that parents and political communities possess a greater range of experiences than children or citizens and thus generally possess greater wisdom. When considering whether or not to disregard the commands of parents or countries one must always keep in mind the relative level of experience involved and be cautious about individual knowledge claims.

I believe that this analogy works very well in these areas, but it does not take us as far as we need to go. There are important differences between the role of parent and that of political community which must be taken into account. The most important difference would have to be that parents rule over children whereas the political community rules over adults. Although the relationship between parent and child persists even once the child has become an adult, the nature of that relationship fundamentally alters over time. A child is recognized as a person who has not fully developed to the point where he or she can adequately govern his or her own life choices. The role of a parent is seen as necessary in order to educate the child so that when the child reaches adulthood he or she will be able to direct his or her own life. When a child is very young, unquestioning obedience to the commands of parents is for the most part a reasonable expectation (always assuming of course that the parent is properly performing his or her role). However, as the child gets older reasoning and persuasion rather than obedience should play a greater role in the relationship between parent and child. When the child reaches adulthood, the demand for obedience ceases and persuasion and the offering of advice take its place. A child should still respect the opinion of his or her parents because of their greater life experience. And, moreover, adult children still have obligations to
their parents based on what their parents have done for them in the past (perhaps, most obviously, an obligation to take care of their parents when they grow too old to take care of themselves).

The relationship between a citizen and his or her political community is, however, importantly different. There is, generally speaking, no point at which the obligation of the citizen to obey the laws of the political community utterly disappears. A citizen is not released from his obligation to obey the commands of his political community simply by reaching a certain age or level of maturity. However, this fact is, I would argue, contingent upon the principle that the political community never can or should exercise the same level of control over its citizens’ lives as a parent exercises over the life of his or her child. A parent has control over all aspects of a child’s life, where he goes, what he eats, what he wears, where he sleeps, etc. And the material resources which a child needs are supplied, in most cases, directly by the parents and only indirectly by the political community. Parents also have a much more direct and effect upon the moral education of their children than the political community does. The political community’s influence is mediated through parents and schools, laws and public figures. The level of control and influence that parents exercise is both explained and justified by the level to which

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300 I say “generally speaking” because there are certain exigent circumstances in which this obligation can cease to exist. Just as a parent can die and release his or her children from their filial obligations, so a political community can die. A state ceases to be a political community either because it fails to provide basic security for its citizens or because its laws and constitutional principles fail to adhere to the most basic requirements of justice. This moment when a state/political entity ceases to be a “political community,” as I have understood that term, may be difficult to discern, but I think we can safely say that it requires more than one or even a few unjust laws. Civil disobedience is a rather different issue. In the case of what a citizen perceives to be an individual unjust law, civil disobedience may be an appropriate form of protest against this law. However, even in the case of civil disobedience a citizen’s obligation toward his or her political community has not disappeared entirely. Civil disobedience is designed to draw attention to an unjust law while still upholding to overall legitimacy of the government and therefore willingly undergoing the proscribed punishment is an essential part of it.

282
children directly rely on them for the very basic requirements of life. For a state to attempt to exercise that level of control over its citizens would be to fail to acknowledge how adults differ from children in their level of dependency and to attempt to keep adults in a state of perpetual childishness. Yet, at the same time I do not mean to suggest that people are freed from all dependency or obligation once they reach the age of eighteen. Citizens still rely on the political community to perform an important role in their lives even after they have reached adulthood. Thus, in order to fully understand the source of our obligations to the political community we must now move away from the parental analogy and explore the unique role that a properly ordered political community should play in our lives.

The essential difference between the political relationship and the parent/child relationship is that the parent/child relation is strictly hierarchical. The parent rules and the child obeys; the parents set the boundaries and norms of the family’s common life together and structure the rules under which the child operates. The essence of the political relationship, on the other hand, is that citizens both rule and are ruled in turn. In other words, the rule of a parent is designed to prepare the child for the day on which he or she will become a full fledged member of the political community. Within the political community, a citizen both structures his or her own behavior and life choices and participates in the structuring of the common life of all citizens. In different circumstances and at different points in his or her life the citizen will both rule and be ruled by others. These various circumstances will differ quite widely from society to
society, but the important point is that there must be some room for both ruling and being ruled in any society which is properly speaking a political community. 301

There are a myriad different ways in which an individual can chose to live his or her life and an equally large number of ways in which a group of people can chose to structure their common life. I agree, to a certain extent, with Martha Nussbaum that the ability to exercise choice in these areas is an important part of what makes us human and should be allowed to develop. Adult citizens should be allowed to direct their own lives and pursue the human good in their own particular fashion. To minutely control the details of a citizen’s life is to infantilize them and deprive them of the opportunity to flourish as a complete human being. There are a couple of important caveats, however. Not all possible individual life plans are compatible with living in society and not all methods of group structure are compatible with a well-functioning group, that is, a group which is able to act as a whole and fulfill its particular ends. Thus, we must recognize that anti-social 302 behaviors and ways of life must be controlled or eliminated by the political community. For this reason political communities have laws which they enforce coercively against their citizens. There are certain aspects of life in which citizens, even as adults, must be ruled for their own benefit and for the common good.

301 To use a rather mundane example, in some societies a man may choose his profession, but have his wife chosen for him. To use a more political example, in some societies average citizens may influence the structure of laws and norms directly through public assemblies, at other times they may do so indirectly through representatives elected or otherwise.

302 The particular understanding of anti-social behavior can vary widely depending on the society in question. There are certain behaviors such as murder, theft, abuse, etc. which we can recognize as universally anti-social based on a generalized understanding of human flourishing. Mill’s harm principle can be understood as a principle which prohibits these forms of universally anti-social behavior. But there can also be society-specific forms of anti-social behavior based on the way in which a particular society concretizes the general principles of justice, as well as the social norms, customs, and traditions of a particular society. These forms of antisocial behavior are, I would argue, legitimate objects of government regulations although it is reasonable to say that they should be punished less severely than universally antisocial forms of behavior.
The second caveat is this: the choices that citizens make about how to structure their individual and common life are never made in a vacuum. These choices will be influenced by the choices that an individual’s parents made when he or she was growing up – their profession, where they chose to live, the values in which they chose to educate him or her. Parents’ choices were in turn shaped by the political community at large, its understanding of justice, its traditions and customs and institutional structures. Moreover, the family and the political community are not the only groups of which an individual is a part. There also exist in society many other groups which shape an individual’s choices, ethnic groups, cultural groups, churches, neighborhoods, voluntary associations of various kinds, professional associations, etc. The fact that any one individual happens to be or to become a member of any particular one of these groups is arbitrary, but the fact that he is a member of some group is not. Human beings naturally form themselves into groups of all varieties and these groups influence their choices. The political community, the family, and various other groups of which an individual is a member all shape that individual’s life choices. They do this first of all because they influence what it is that an individual values. But they also shape a person’s life choices because they limit the various options that are practically possible.

Some may view this influence as pernicious because it effectively closes off to an individual some aspects of human flourishing. I would suggest, however, that the influence of family, political community and other groups on both a person’s values and his or her practical options is empowering precisely because it is limiting. Radical choice between an infinite number of options is paralyzing not only because of the sheer number of choices, but also because if we were to completely resist the influence of any factors
external to us then we would have no basis on which to make that choice. We might decry the waste of a man with the soul of an artist who follows his father into the family accounting business, but compare that with the bewilderment of a college senior looking to discover his career path without any guidance at all and consider who is worse off. People are encouraged to discover their passion as if their passions were something uniquely their own, freed from all outside influence and which never change. But our passions are shaped by both our choices and the choices of others. A person can flourish as an accountant or as an artist and he or she can equally fail to flourish as either one.

The point of the above argument is to suggest that human beings are and should be members of a variety of groups which are contained within the political community. These can include family, religious, artistic, professional, social, and neighborhood groups, etc. These groups help human beings to flourish by shaping their values and passions, by supporting their ability to make choices, and by teaching them to function as part of a group. Part of what it means for the political community to allow for ruling and being ruled in turn is that it must permit the existence of such groups and allow them to flourish on their own. By providing security and a system of laws to regulate interactions between individuals and groups the political community provides the space in which the groups that are necessary to our flourishing can exist and support us in our endeavors.

These groups are created, structured and maintained by the actions of individual citizens and within these groups individuals learn both how to rule and be ruled on a smaller scale. By allowing these groups to exist and have a reasonable amount of autonomy the political community provides an opportunity for its citizens to both rule and be ruled other than through direct participation in political decision making. In order
for a state to be considered a true political community it must empower its citizens by
letting them form groups of this kind and allow for their existence and maintenance in the
law itself. This does not mean, of course, that all groups must be allowed to exist or that
these groups are free to do whatever they would wish to do. The state can forbid the
existence of groups with obviously anti-social purposes, such as groups that are dedicated
to violence or crime, or groups that employ obviously anti-social practices or means, such
as groups that keep their membership through violence or coercion. There may also be
cases in which a political community could prohibit groups that are dedicated to society-
specific as opposed to universally anti-social purposes. For example, it may be
reasonable for a political community to outlaw a group which is dedicated to the
destruction of that community’s constitution or form of government even if they pursue
that end in an open and peaceful manner. Caution should always be exercised, however,
when making the decision to prohibit a group because of the nature of the judgments
involved and the exceedingly important role that these groups play in human flourishing.

We must now turn to the question of whether or not the idea of “ruling and being
ruled in turn” requires that a political community be organized around democratic
political institutions of some sort. I have suggested that the importance of the political
community over and above the family comes from the fact that it involves ruling as well
as being ruled. It does this first of all by allowing space and freedom in which people can
make choices about how to live their lives. Some constraint on choices is, of course,
necessary but a political community should not treat its citizens like infants or try to
anesthetize them from all the pains and burdens of life. The political community also
fulfills this end by allowing for the existence and flourishing of the various sub-political
groups of which its citizens are members. These groups allow everyone to participate in ruling and being ruled and they also support and shape our choices about how to live. The political community itself is unique and uniquely necessary in human life because it contains within it all of these other groups and it is itself not contained by a larger coercive authority. This is not to deny, of course, that political communities enter into relationships and treaties with one another and act together through mutual agreement. But when it comes to how to structure their own internal relations and choosing how to act in the world, they ultimately submit to no coercive authority. Political communities can bind themselves through agreements and are bound by certain moral laws but there is no one to enforce those laws or agreements other than themselves. The political community acts as a whole on the largest stage on which such action is possible.

A political community acts as a whole and the government of that community is seen by the members as a legitimate representative of their common life and common will. This requirement of perceived legitimacy is, I would argue, the first way in which the people in general can be understood as participating in the political community. In order to be a political community, properly speaking, a country must have a government which the people in general believe is legitimate. The people must understand themselves as a part of a whole which acts together and they must believe that the government is a legitimate representative of their collective identity. This means that they must understand themselves as being associated with and bound to its actions, even when they do not necessarily agree with those actions.

Depending on the values and understanding of justice that are operative in a given society at a given time the types of government which can be perceived as legitimate may
vary greatly. Monarchies, aristocracies, and democracies have all been perceived as legitimate by the people who live under them at various times and in various places. As is clear from the argument so far, a perception of legitimacy is not the only thing that is necessary for a society to be a political community properly speaking. However, the requirement of popular legitimacy is one way in which the opinions of the people at large matters for the existence of a political community. If people see their government as legitimate then they understand themselves to be participating in some way in the actions which it takes especially with regard to other political communities. Its decisions are to some extent their decisions and the success or failure of a political community’s actions is a success or failure of each of its citizens individually.

I would further suggest that in order for a political community to truly embrace the principle of being ruled and ruling in turn there must be some method by which the people can affect the structure of their common life. It is not enough that the people feel bound by the decisions of their leaders; they must feel that the actions which their government takes genuinely represent the will of the community as a whole. It might be possible to imagine a political society in which the understanding of both the goals of the community and its common notion of justice are so completely shared among the people that any randomly chosen leader would be able without taking advice to make decisions that truly represented the will of the whole. An understanding like this is perhaps what Rousseau speaks of when he discusses the general will. The practical reality, however, is somewhat different.

A political community must share an understanding of justice which is more concrete than simply a dedication to the “rule of law” or the principle that “might does
not make right.” But the members of a political community will never share an understanding of justice which is the same in all of its details or agree about what justice means in all particular cases. For example, as Americans we are all dedicated to the idea of “equal protection of the laws” for all citizens, but we disagree about whether that forbids the government from making any discriminations on the basis of race or only from making invidious ones. The upshot of this is that in the decision making process of the government various different viewpoints must be taken into account if the people are to be genuinely represented by the government. This means that there must be a method by which various segments of society, various groups, and various opinions can be taken into account in decision making processes.

Taking into account various opinions and viewpoints can be done in a number of different ways, however. It does not necessarily require formal democratic institutions. This can be achieved by allowing individual citizens to freely express their opinions and grievances to various government officials at any level. This can be achieved also by formally representative government of some sort. Representatives can be elected or they can be hereditary or appointed. What makes him or her a representative is that some common interest or opinion or affection or obligation unites him or her to some larger group which shares some particular characteristics in common. The idea behind aristocratic government, for example, has always been that the aristocrats are supposed to represent the interests of a certain groups of people: tenants, fellow landowners, local business people, etc. The aristocrat is tied to these people by the fact that they live in the same area and have similar problems and needs as well as by social structures and education which instill in him a sense of obligation and duty towards these people.
Granted, this form of representation never works entirely well, but the same can be said, I would argue, of all forms of representation. The representative will sometimes act in his or her own interests rather than those of his or her constituents. Moreover, even within a group which shares particular interests and opinions there will be some differences that fail to be represented adequately. This happens even when everyone gets to cast a vote for their representative because the choices will always be limited by the system and the majority opinion will rule. As the diversity of interests, opinions and concrete understandings of justice in a political community increases the argument for formal democratic institutions to represent this diversity becomes stronger. However, the point here is that formal democratic institutions are not the only legitimate form of representation.

Although the particular form which ruling and being ruled takes within a specific political community can vary a great deal, we may say, in general, that the principle of ruling and being ruled is an anti-totalitarian principle. In a totalitarian society, the government attempts to exercise minute control over every aspect of its citizen’s lives. The principle of ruling and being ruled requires that citizens have some areas of freedom, some ability to exercise control over their lives, to choose where they will live and what occupation they will pursue, to examine the question “how ought I to live?” and to weigh the relevant answers. A state that attempts to entirely control these decisions for its citizens, which tries to eliminate the autonomy of various sub-nation groups, which seeks to organize every aspect of its citizens' lives, leaves no space for ruling and being ruled and is, therefore, by definition not a political community.
Ruling and being ruled is an essential part of the human good, as I understand it, for two reasons. First of all, the ability to exercise one’s free will is an essential part of what it means to flourish as a human being. Human happiness comes from choosing the good in whatever circumstances we find ourselves in. Actions can be virtuous even when we are coerced into doing them, but a person cannot be virtuous unless he or she chooses to act virtuously out of a desire to do the good. This is the highest and best form of human action and we cannot achieve it if we are infantilized by our government, even a government which professes to have our best interests at heart. “Ruling,” in this context, means being able to exercise some control over both how we choose to interact with others on an individual level and how we structure our common life together. Human beings are naturally social beings and attempting to figure out how we should structure our common life, how we ought to interact with one another, and what rules we ought to regulate these interactions is not only a complex and fulfilling task but also essential to our individual flourishing.

On the other hand, choosing to do the good in our relationships with others is not something that we come into this world automatically knowing how to do. We have to learn how to rule by being ruled. We are all born into a world which is already structured by a certain understanding of justice. We are trained and habituated to respect the rules of justice and to choose the good in our interactions with others. This process begins when we are children and we are forced to obey the dictates of our parents, to be ruled by them in all aspects of our lives. As we grow older we can begin to understand the reasons behind the various rules and to examine whether or not they actually promote human flourishing. However, it is a mistake to assume that when we reach eighteen
years of age we are suddenly perfectly equipped to be set entirely free to rule ourselves. The process of learning how to rule is a life-long process and we constantly have new things to learn. We still need to be ruled by laws and continually habituated by the practices of others to choose the good.

Ruling and being ruled within the political community is a continuous process in which we are controlled in some ways and set free in others. The object is to make sure that, for the most part, no adult human being is either entirely free from constraint or entirely constrained. The laws and mores of society continually provide both examples and incentives to us and the choices of others and our own resources also serve to limit our practicable options. But we can still analyze the examples of society, weigh our options and incentives and exercise choice in many areas of our lives. Moreover, through our own actions we can shape and reshape the rules under which our society operates and the structures and institutions by which we organize our common life. Thus, providing its citizens with the opportunity to both rule and be ruled throughout their lives is the primary end of a political community which all of its other ends – security, basic material goods, an education in justice – are necessary in order to serve.

5.6 What about the Cosmopolis?

Finally, we must turn to the question proposed by the title of this dissertation itself. Why is it that the roles which I have mentioned above cannot be fulfilled by a political community which encompasses the whole world? Is it not at least theoretically possible for a political community which includes the whole world to provide security, basic material resources, an education in justice and an opportunity to both rule and be
ruled to all of the world’s people? The answer to this question is not an easy one. The most common reasons that are given against world government or a world state are practical reasons. Martha Nussbaum, for example, does not believe that the boundaries between states and nationalities are morally relevant, but she also does not believe that the establishment of a world state is practicable for a variety of reasons. For example, she cites the problems of access and accountability that are associated with the various supranational organizations that exist today, specifically the European Union. She also makes reference to the way in which human compassion has difficulty extending itself to include people who are very far away from us or very different from us. I would suggest, however, that we cannot make a strict distinction between “practical” and “theoretical” arguments in this regard. The practical reasons which are often invoked against the idea of a world state reflect some inherent truths about human nature and the multiplicity of human goods. In this sense, they become theoretical rather than practical considerations and present obstacles to a world state which we cannot hope to overcome through advances in technology or institutional design.

To begin with, as I have mentioned before, I do not accept Nussbaum’s contention that the boundaries between political communities are morally irrelevant. Nussbaum is correct when she argues that the geographical boundaries of any specific state are the result of a series of historical accidents. For example, there is no argument that can be made in the abstract which would place the land north of the Rio Grande River in the United States and the land south of it in Mexico, or which would explain why the entire island of Ireland should or should not belong to the Republic of Ireland. However, there is nothing arbitrary about the relationships between people that these
boundaries create. We are all born into a world that is already divided up into various communities, political and otherwise. These communities shape who we interact with, who we enter into transactions and agreements with, and thus who we have obligations towards. Taking these previously existing commitments into account is what Müller calls “fairness in the face of achieved institutions.”

If one were to advocate reorganizing the world community into a world state or even just altering the boundaries of states that currently exist in order to more efficiently provide for the needs of all human beings, one would have to, to a certain extent, ignore all previously existing transactions and relationships. Each human being is born into a network of previously existing communities and relationships. Throughout the course of our lives we also choose to enter into a variety of relationships and commitments. We choose to become part of a voluntary association, or we choose to marry and have children, etc. Any attempt to redistribute resources on a basis of universal equality will necessarily disrupt the commitments entailed by these previously existing networks of relationships. Even if we were to grant that relationships which we do not choose cannot impose obligations on us, there are many relationships that we do choose to enter into and forcing us to ignore such obligations would, to say the least, go against our considered moral judgments.

Political communities have come in many shapes and sizes throughout history and there is no specific size that a political community has to be in order to fulfill its role in human life. Perhaps the best we can do is to say, as Chesterton does in his essay on “The Patriotic Idea,” that the political community must be “of manageable and imaginable size,

303 Müller, Const. Pat., 70.
large enough to inspire reverence by its hold on history, small enough to inspire [the patriot’s] affection by its hold on himself.”

Chesterton’s argument here revolves around what he perceives to be the realities of human nature, or perhaps more specifically, human psychology. Chesterton, like Nussbaum recognizes that human affection is naturally limited in its scope. As we shall see in more detail in the next chapter, it generally begins from a concrete sensory experience. As its object becomes less concrete, love becomes weaker and more diffuse until our knowledge of the object reaches a level of generality at which love is no longer possible. At the other end of the spectrum, we cannot have affection for an object which manifestly fails to perform its proper role in our lives. A political entity which is too small to adequately provide its citizens with security or material resources will also not be able to inspire their affection.

However, even if one were to deny, as Nussbaum appears to do, that human affection cannot escape these inherent limitations, there is still another argument to be offered against the possibility of a world-state. This argument is based on what I will call the principle of the multiplicity of particular goods. The basic idea behind this principle is that, while we can describe what we might call “the universal human good” in certain very general terms, there are many different possible instantiations or manifestations of that good, which, at a certain level of particularity, are incommensurable with one another. I have already discussed this principle with regard to the political good, or the end of the political community. The end of a political community is to provide its citizens with an opportunity of ruling and being ruled in turn,


305For an examination of this principle in greater detail see Chapter VII, pp. 327-335.
but there are a myriad of different laws and institutions structures through which this can
be accomplished. In a like manner, we can speak of certain universally anti-social or
unjust behaviors, but the basic principle that justice requires treating people who are
similarly situated in the same manner can be particularized in many different ways. The
many different political communities that exist in our world today all offer somewhat
different manifestations of these general principles. No political community is perfect
and no institutional or legal structure is without its failings, but, I would suggest that the
different successes and failures of these various communities cannot be weighed up
against one another in order to decide overall which system is best.

Much of liberal thought, including Nussbaum’s capabilities theory and Müller’s
constitutional patriotism, is predicated upon the notion that politics should proceed
through rational persuasion rather than force or coercion. The people of a political
community should decide together how to act in the world and how to rule themselves. I
would not deny that this is the case, but what I think these authors fail to appreciate is not
only that rational persuasion requires certain preconditions in order to take place, but also
that because of the incommensurability of particular goods rational persuasion sometimes
cannot take place at all. Allow me to unpack this claim and to show how it relates to the
question of the feasibility of a world-state.

Rational persuasion is not something that occurs in the abstract; rather, it occurs
between two or more people who all enter into the conversation with ideas already
formed by their education, upbringing, habits and values. In order for persuasion to
occur the argument has to begin from a common point that all parties accept. The more
different the parties to the argument are in terms of education, values, etc., the greater the
level of generality at which their common starting point will exist. Moreover, the greater the distance, in terms of generality, between the common starting point and the desired conclusion of the argument the more difficultly the argument will entail and the lesser the likelihood of reaching an agreement. For example, if John and Jane are engaged in a philosophical argument about utilitarian ethics vs. virtue ethics, the greater the level of generality at which their argument begins the more difficult it will be to reach a successful conclusion. If all John and Jane agree about is their acceptance of the principle of non-contradiction, then the argument will prove more difficult than if they agree about, say, the teleological nature of human life. In a like manner, when a political community has to decide whether or not to implement affirmative action policies, rational persuasion is much more likely to occur if the argument begins from the shared premise that all citizens are entitled to the “equal protection of the laws” rather than the shared premise that “all human beings are created equal.”

In addition, agreement through rational persuasion is much more likely to occur if there is a certain level of social trust among the parties to the argument. Every person enters into an argument with a limited amount of knowledge about the subject under consideration. And no person is in a position to independently verify all facts offered in the course of an argument. If there is trust among the members that they are not seeking to manipulate one another, then the argument may proceed more smoothly. Moreover, when it comes to deciding how to act as a group, the parties to the argument must be able to trust they all have the best interests of the group at heart. By providing its citizens with similar education and values and by facilitating the formation of social trust, a particular political community serves to narrow the scope of the conflict between its
citizens. This narrowing of the scope of the conflict makes it more likely that the citizen’s internal relations can be ruled by rational persuasion rather than coercion and fear. Thus, a political community provides the necessary preconditions in which rational persuasion can be successful.

It would still be at least theoretically possible for a world-wide political community to provide these preconditions were it not for the multiplicity of particular goods. There are some arguments which cannot be settled through rational persuasion no matter at what point the argument begins, and these are arguments about the relative merits of the different particular instantiations of the human good. For example, we may be able to come to some sort of agreement that exposure to the arts is necessary for all human beings to flourish. This does not mean, however, that we could ever come to an agreement about the relative merits of sculpture over painting or flute-playing over guitar-playing. When it comes to forming a group to pursue one of these activities, there is no argument that we can make in the abstract for the superiority of a group dedicated to the flute over one dedicated to the guitar. If we could come to an agreement it would be based upon practical considerations that are specific to the context in which we are operating.306 When it comes to arguments about different manifestations of the political good or the different laws and institutions which support them, the same sorts of considerations apply. The best arguments that we can make regarding the relative merits of a presidential vs. a parliamentary system, Roman law vs. common law, or even democracy vs. aristocracy are arguments that are based in the realities of the specific

306 For example: We have more people interested in the flute than the guitar in this particular area; we are able to get more flutes for people to play; or there is already a guitar playing group nearby.
time, place, and circumstances in which we are operating. And even then it is by no means certain that these sorts of arguments could ever be settled to everyone’s satisfaction.

The world in which we live is populated by a sometimes quite overwhelming diversity of political and social practices, principles, and understandings of justice. I would suggest that this diversity is a good thing because it allows for a variety of different experiments in self-rule. In order for a world-state to be capable of performing all of the roles which I have outlined as part of the end of a political community, a large part of this diversity would have to be eliminated. I hope that I have indicated here why I think that such a state of affairs is not only undesirable but also impossible for human beings to achieve. If nothing else we can take note of the fact that both Nussbaum and Müller’s theories operate on the basis of some sort of universal consensus, regarding the universal right of all human beings to possess certain capabilities or the universally accepted principles of communicative action, a consensus that never seems to emerge. As much as we might like to be able to maintain that a debate between rational well-intentioned persons committed to treating each other as equals will always lead to a mutually-acceptable conclusion, the practical reality of human life simply does not admit of this appealing solution. Alternatively, I have suggested that a particular political community with a shared understanding of justice and shared traditions and customs facilitates the attempt of human beings to live and act together through persuasion rather than force by limiting the scope of the conflict to the point where persuasion becomes both possible and practicable. In this way, so far from being anathema to persuasion and the exercise of reason, patriotism is, in fact, essential to it.
6.1 Love and Friendship

Having now discussed the object of patriotic affection, i.e. the political community, and its important and necessary role in the lives of citizens it, it is now appropriate to move on to a discussion of the mode of patriotic affection. Traditionally, patriotism has been defined as “love of one’s country.” The problem with this definition is that understanding a patriot’s attachment to his country as love raises in the minds of critics all sorts of morally problematic associations. Love is seen as passion which overwhelms reason and drives the lover to disregard the rules of morality. Moreover, love is often seen as an irrational response to a particular object. No one can explain why one person falls in love with another, and it seems to have nothing to do with a person’s virtues or vices. We can see all sorts of examples of people who drive themselves to despair through love of a vicious or thoughtless person. These critiques can perhaps be summed up by the old adage that “love is blind.” Love is blind in the sense that it does not take into account the goodness (or lack thereof) of its object. And it is blind in the sense that it deprives people of both their moral and their common sense. They become blind to the consequences of their actions, and, therefore, they become dangerous.

It is from this understanding of love that many of the traditional patriotic stereotypes are drawn. The patriot declares that he will support his country regardless of
whether or not its actions are right or wrong, just like the lover who defends his beloved’s actions even when they are manifestly immoral. The patriot refuses to think ill of his or her country or to accept obvious evidence of its failings. The patriot loves his country and thinks it is superior to all other countries based simply on his passion for it rather than on any actual knowledge of other countries. The patriot irrationally clings to customs and traditions of his country regardless of whether those customs are hurtful or oppressive. And perhaps most troubling of all, the patriot’s love leads him to unquestioning obedience of the commands of his government. The very irrationality of the patriot’s passion for his country leads to a tendency for conflicts to escalate into violence. The patriot cannot support the notion that some other country may be superior to his own and will violently resist any such suggestion. Moreover, he will be very jealous of his country’s honor and insist that any insult to it or slight upon that honor be defended with violence if need be.

These portraits of the lover and of the patriot as a lover of his country certainly represent extremes of behavior. Not all lovers or patriots act in this way, but this extreme, some would argue, is inherent in the nature of love. There is always the possibility that love will degenerate into these extremes of behavior because it is, at heart, an irrational passion. Irrational affections cannot be defended through rational argument; they are the result of a variety of contingent circumstances. Debates over the superiority of one object of love to another can never be settled rationally, which is why they often degenerate into violence. The passions are often seen as ungovernable; they sweep aside the arguments of reason and the claims of morality through their force. Within political communities, we have rules and laws which can punish and often prevent the worst
extremes of behavior associated with passions. We cannot prevent people from hurting themselves though their irrational passions, but we can and do try to prevent them from hurting other people. Patriotism, however, is a passionate love for that very political community. There is no coercive force which has the power to prevent the excesses of national passion in the same way that the laws of an individual country can discourage the excesses associated with private or individual passion. The passionate love of the patriot is not only not checked by the laws and the government it is, in fact, encouraged and fostered as a positive good.

We have seen how both Nussbaum and Müller, in their attempts to reign in patriotism, have tried to alter the mode of attachment into something milder and more manageable than love. Nussbaum emphasizes compassion or “purified patriotism” as the proper sentiment to motivate human beings to help and serve one another equally. Müller suggest that the constitutional patriot adopt a critical stance towards his country at all times, always reminding himself of its failings. I would suggest, alternatively, that a proper understanding of love itself can offer us a conception of patriotism that is neither inherently blind nor violent. True love does not involve either total obedience or a sweeping aside of all moral considerations and it cannot be separated from an understanding of the good of the object of one’s love. A proper understanding of the nature of love can show us the relationship between that which is good and that which is familiar. By working out this relationship we can construct an understanding of patriotism which is both useful and morally acceptable. The understanding of love that
I will be outlining here is drawn in large part from Thomas Aquinas’ examination of both the passion of love and the virtue of charity in the *Summa Theologiae*.³⁰⁷

6.2 Love and Its Causes

Aquinas begins his discussion of the passions or emotions (*passiones animae*) in Ques. 22 of the *Prima Secundae*. His basic description of the passions is drawn from Aristotle: the passions are movements of the soul towards or away from some external stimulus or object. The passions, according to Aquinas are movements of the appetitive part of the soul which has as its end the “good” as opposed to the apprehensive (intellectual) part of the soul which has as its end the “true.” Love, in its most basic sense, is thus the movement of the soul towards something which it perceives as good. These goods can be material in the sense of food or shelter or sex or they can be immaterial like companionship. The important point here is that love can only be caused by something which is perceived by the individual as good in some way or under some description. Thinking of love in its most basic sense as desire or attraction can help us to understand this claim. People may desire things that are ultimately bad for them, such as unhealthy foods or unhealthy relationships, but we do not desire them because they are bad. Our bodies need food and our souls need companionship and therefore companionship and food are good for us. When I desire to eat this cupcake or stay in a

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relationship with an abusive boyfriend, I do so because I perceive these objects as good in
that they fulfill some need in my life.\textsuperscript{308}

This movement of our appetite towards some object is not, in itself, voluntary but
this does not mean that it cannot be, at least to a certain extent, controlled. Our appetite
moves towards something because there is some description under which we find it good.
This movement is not fundamentally irrational because it is not fundamentally
inexplicable. The fact that I am attracted towards a certain object tells me something
about myself and my own needs, about the needs of human beings in general, and about
the object itself. I can turn my reason towards an analysis of this object and myself in
order to try to understand the description under which it appears to me as good. When I
am attracted to another person, I can try to analyze the source of that attraction. Do they
fulfill a particular role in my life? Do they have some qualities which I want to possess?
Of what general or universal human good is this role or these qualities a particular
manifestation? I can try to understand my particular tastes in terms of universal
categories of goodness. Thus, the fact that I am attracted to Arts and Crafts houses or
blue eyed men may be a result of my particular education, experience or genetic traits,
but the fact that I want shelter and companionship or an ordered aesthetic and a
permanent relationship can be understood as part of the general tendencies of human
beings. The fact that I feel an affection towards my particular political community tells

\textsuperscript{308} These perceptions can certainly sometimes be mistaken in that the description under which the
object appears to us as good is somehow wrong. But these mistakes about the good happen in a fairly
predictable manner. We can love a thing that is evil because we perceive it as a means to something that is
good; we can mistake some part or characteristic of the object that is good for the object as a whole. We
can even love things that we rationally understand to be bad for us. All this means is that there is some
description under which the object in question appears as good to the appetite even if the intellect knows it
to be bad. Whether we choose to follow this desire or not is a function of the will and how it is formed.
me something about how my tastes and appetites have been formed by my education and upbringing, but it also tells me that my political community appears to me under some aspect of a general human good. It tells me something about a human desire for social relations and interactions, for ruling and being ruled in turn.\footnote{For a fuller description of what the idea of “ruling and being ruled in turn” requires, see Chapter V pp. 250-262. Aristotle uses this phrase to describe a specifically democratic type of rule; however, I have given it a significantly broader meaning. The requirement that a political community be dedicated to providing its citizens as a whole with an opportunity to both rule and be ruled in turn is, to begin with, an anti-totalitarian principle. A state which attempts to minutely control all the details of its citizens’ lives is not providing them with an opportunity to rule. In addition, a state dedicated to the principle of “ruling and being ruled” need not have formal democratic institutions, but it does have to offer its citizens some mechanism by which they can express their opinions regarding the structure of their common life.}

There are many different particular manifestations of general human goods and the particular manifestations which appeal to us will be affected by our necessarily limited and particular experience and education. There may be many particular objects that are goods but to which I do not happen to be very attracted. As we shall see, knowledge of the object and a sense of similarity between myself and the object all affect the extent to which I can or will be attracted to it. Moreover, people can have mistaken descriptions of a particular object which cause them to be attracted to it despite the fact that it is not ultimately good for them. In these ways, our passions are not wholly reliable when it comes to making judgments about what is good. However, they do give us some information and direction about the good and therefore they should not be wholly disregarded as irrational or inexplicable.

Thus, according to Aquinas, love as a passion is an involuntary movement of the soul stimulated by an encounter with some external object which is perceived under some aspect of the good. An important corollary to this understanding of relationship between
love and goodness is that an object can be loved only in so far as it is known by the person who loves it. The object does not have to be known perfectly, but it must be known to some degree. This knowledge can be primarily sensory knowledge, as when one is attracted to a beautiful person or work of art. To see a beautiful person or a painting is not to know it entirely, but through seeing we do gain some knowledge and can understand that thing is aesthetically pleasing. If one found out later that the beautiful person was a serial killer or a rapist, then the description under which one understands the object as good would change. One might still be attracted to the person’s beauty but this might be mitigated by one’s repulsion to their behavior. In a similar manner one could desire to eat a freshly cooked steak just by seeing it and smelling it, but if one found out that it was poisoned one would no longer desire to eat it (although one might still be hungry or desire to eat an un-poisoned steak).

310 “I answer that, as stated above, good is the cause of love, as being its object. But good is not the object of the appetite except as apprehended. And therefore love demands some apprehension of the good that is loved. For this reason the Philosopher says that bodily sight is the beginning of sensitive love: and in a like manner the contemplation of spiritual beauty or goodness is the beginning of spiritual love. Accordingly, knowledge is the cause of love for the same reason as good is, which can be loved only if known” (ST 2-1 Q27 A2 Corp).

311 As human beings we live in a realm of sensible objects and therefore in most cases love is in some way related to sensory knowledge. We cannot love persons or objects without knowing them as particular persons or objects. We cannot, in other words, love things in the abstract. Aquinas does maintain, however, that we can love non-sensible objects such as God by means of our rational (as opposed to sensible) appetite.

“I answer that, Love is something pertaining to the appetite; since good is the object of both. Wherefore love differs according to the difference of appetites. For there is an appetite which arises from an apprehension existing, not in the subject of the appetite, but in some other: and this is called the ‘natural appetite.’ Because natural things seek what is suitable to them according to their nature, by reason of an apprehension which is not in them, but in the Author of their nature, as stated in the 1, Q6, A1, ad 2; 1, Q103, A1, ad 1, 3. And there is another appetite arising from an apprehension in the subject of the appetite, but from necessity and not from free-will. Such is, in irrational animals, the ‘sensitive appetite,’ which, however, in man, has a certain share of liberty, in so far as it obeys reason. Again, there is another appetite following freely from an apprehension in the subject of the appetite. And this is the rational or intellectual appetite, which is called the ‘will’” (ST 2-1 Q26 A1 Corp).
Thus, we cannot love persons or things which are entirely unknown to us. In order to seek after or desire anything, even knowledge itself, we have to have some understanding of what we are seeking after. When Copernicus sought knowledge of the movements of the planets, he did not know what answers he would find, but he had some understanding of what he was seeking. Human beings may have general undirected desires, such as for food or warmth or companionship, but in order for that desire to be directed towards a certain particular object we must encounter it in some way. In order for me to love John, I have to know that he exists as a particular person; I have to have some understanding of who he is. When I first encounter John, it may be as a stranger on the street whom I find physically attractive. In that case I have a description of him as good in the sense of beautiful. He may be introduced to me as my best friend’s fiancé, and in that case I can have a description of him as good in that he makes my best friend happy. If I find out that he is cheating on her, then that description will of course change as will my feelings towards him. It is important to point out, however, that until I knew that John existed, I could not have any feelings towards him one way or the other.

The second important corollary to the relationship between love and the good is that the appetitive part of the soul is only attracted towards, i.e. perceives as good, those objects within which it perceives a sameness or affinity to itself. Aquinas maintains that there are two ways in which to things can be similar or bear an affinity to one another. In the first place, (1) two things can be the similar in that they possess the same quality or form (*idem in actu*). \(^{312}\) Possession of the same quality brings two different objects

\(^{312}\) “One kind of likeness arises from each thing have the same quality actually: for example, two things possessing the quality of whiteness are said to be alike. . . For the very fact that two men are alike,
together and unites them in that they share the same form. When I share a quality with another person, I can see in them that which I possess myself and this allows me to have a description of them as good and thus to love them. This common quality or form can be of many different types. All human beings are united in that they share in a common humanity; therefore I have a basic affinity with any human being that I encounter. If I am a virtuous person or even if I simply possess the basic principles of virtue without actualizing them, I will still be able to recognize an affinity with other virtuous people. In other words, if I have a basic understanding of what courage is, even if I do not possess the habit of courage myself, I can recognize courageous behaviors in others, and therefore be able to feel love for them. I can also recognize in others an affinity when we perform the same role, when we share the quality of motherhood or citizenship.

Moreover, qualities and forms vary in the extent of their particularity. A flute player and a piano player share the quality of being musical, but two flute players share the habit and thus the quality of flute-playing.313 The more particular qualities that I share with another person the greater will be my sense of affinity with them.

There is also another way, besides possessing common qualities, that one object can bear an affinity to another. “Another kind of likeness arises from one thing having

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313 Sharing a common quality or form is not the same thing as sharing a common set of experiences. Aquinas describes the similarity here as “idem in actu” being the same in act or actualizing the same form. This seems to indicate that the commonality here cannot simply be something that a person has suffered or experienced or undergone; it has to be a commonality brought about by action. Responding in similar ways to the same set of circumstances or experiences would qualify, however. I would not feel commonality with a mother who abused and neglected her children because she is not actualizing or performing the role of a mother. In a similar manner, after suffering through hurricane Ike I will not feel a sense of affinity with a person who looted empty homes, but I will sense affinity with a person who, as I did, worked together with their neighbors to protect and clean up after that hurricane.
potentially and by way of inclination, a quality which the other has actually.” 314 This kind of affinity comes about when I see in some object or person a quality which I have a desire for and wish to possess. At its most basic level, we can see this kind of affinity in objects that we need just as a hungry man needs food and a sick man needs health. We can see in those objects that we need an actuality which we have a desire to possess because we have an inclination towards that actuality and the potentiality for it. When I desire a gorgeous pair of shoes, I do so because I see in them a beauty which I wish to possess myself; they actualize a form of beauty which I have the potential for and desire to actualize myself. This kind of affinity can also be seen in a certain kind of love that we have towards other people. If I want to be a great writer, and I encounter someone who already is one I sense an affinity between myself and this writer because he or she actualizes an ability or talent which I have both the potential for and an inclination toward.

Again, as with an affinity of qualities, there are more general and more particular forms of this affinity of potentialities. All human beings possess both a potentiality for and an inclination towards certain things like health and knowledge and companionship, but based on the context and circumstances of our lives we will desire different particular actualities. When I am starving to death any food will satisfy my need, but under normal circumstances my desire for a particular food will depend upon my experiences and upbringing and bodily chemistry. Human beings may all desire to create beautiful things or to contribute the good of their society, but the fact that I desire to do this as a writer and someone else as a painter will also be a result of varying experiences and education.

314 ST 2-1 Q27 A3 Corp.
The more particular the actuality that I observe and desire in another, the greater will be my sense of affinity with them. When analyzed, the affinities that we as human beings sense with other people can be placed in the category of general human goods, but the immediate sense of affinity that I feel is directed towards another person or object as a particular whole.

Thus, I have here described three different factors which must be present in order for a person to feel love towards an object: goodness, knowledge and affinity or similarity. These we might call the three causes of love. The relationship between these three factors is complex, but I would suggest, as Aquinas does, that all three of them must be present in order for a person to feel love or a movement of the soul towards some external object. In order to a love an object I must perceive it under some aspect of the good, and in order for this to perception to take place I must have some knowledge of the object (sensory or otherwise) as similar to something in myself. In other words, there must be an encounter which results in a recognition of affinity. Because the perception of goodness in an object relies upon a recognition of an affinity between myself and the object, this perception is not always entirely reliable. The recognition of virtue in others is not actually dependent upon me exercising virtue myself, but it is dependent upon a basic understanding of the functional nature of virtue. I will recognize an affinity between myself and some object which can act to fulfill a need that I have, but this

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Aquinas suggests that one does not have to actually possess the habit of virtue in order to recognize it in others because all human beings inherently possess the “seminal principles” of virtue. Human nature is such that we are “hardwired” to prefer functionality over disfunctionality. For example, the human mind is not indifferent to truth; it actually functions better with truth than it does with falsity. “We might also say that although not all men have these virtues in the complete habit, yet they have them according to certain seminal principles in the reason [seminalia rationis], in force of which principles the man who is not virtuous loves the virtuous man, as being in conformity with his own natural reason” (ST 2-1 Q27 A3 Ad4).
perception may be skewed by the extremity of my need and my knowledge of other possible sources to fulfill that need. Just as a starving man will eat grass, so a very lonely person may love an abuser because his or her need is so extreme. The appetite may perceive something as good and desire it even when our reason tells us that it is bad for us. Appetites are formed based upon needs and habits, experiences and education, but it would be a mistake to assume that they are therefore entirely beyond our control.

The expression “you can’t help who you love” is one with which we are all familiar, but I would argue that the understanding of love it expresses is not entirely correct. It is certainly true that when a person feels the passion of love, he or she will generally not be cognizant of the substance of the description under which the object appears good. However, a rational analysis of the person’s understanding of the object will often reveal the substance of that description. We can analyze why we are attracted to a particular person, what it is about him or her that appeals to us. Do I see in this person something that I would like to be or does this person have something that I would like to possess? Does this person bring about some characteristics in myself that are positive? In other words, what affinity do I perceive between myself and this person? I can also examine that affinity or characteristic which I perceive to see whether or not it is genuinely good or bad. The initial attraction or passion which I feel towards that person or object is not something over which I have any control, but I can harness my passions to the pursuit of what is truly good through my understanding of the description under which the object appears as good. If I understand why some object appeals to me, I can eventually come to alter or eliminate that appeal through altering my description of the object. Through understanding the object more fully, I can see how my initial description
was not an accurate description of the object as a whole. While it may never be possible to bring my passions completely into conformity with the good, it is possible for reason to shape the passions to a certain extent.

All objects and persons have failings and this does not necessarily mean that one should not love them, but a fuller understanding of an object’s failings can change how we behave towards it. Moreover, depending on my own failings, a particular object may not be appropriate for me to love. It may exacerbate or encourage all of my own worst traits instead of inspiring me to be better. Also, if through an analysis of my passions I come to see that the affinity I perceive in a particular object is based upon some characteristic or trait of my own which is not good, I can try to alter that characteristic in myself so that I am no longer able to perceive an affinity between myself and the object. In these ways, that passion of love can be understood as something that is, to a certain extent, subject to the control of the will and the reason and therefore something which can be judged as either moral or immoral. Complete control over the passions is not possible, but they are amenable to a certain level of control and the key to that control is understanding what causes them.

I had previously suggested in my discussion of Martha Nussbaum’s arguments against patriotism that familiarity with an object does not automatically lead to loving it, but rather that loving an object is somehow related to the fact that it performs a certain function in one’s life and performs that function well. Now, using the Thomistic categories I have described above we can explore this contention more fully. As we have said goodness, knowledge and affinity are all required in order to cause love for a

particular object. Familiarity with a certain object can give me knowledge of it, but that
knowledge will not cause love unless I perceive in the object under some aspect of the
good, and I will not perceive and object in this way unless I perceive some sort of affinity
between myself and the object. This as we have said, can be an affinity of form or an
affinity of potentiality and act. I can recognize an affinity between myself and that object
because it fulfills some need in my life - a house that keeps the rain off of my head or a
country which provides me with security and an education in justice.

This affinity between potency and act is perhaps the easiest type of affinity to
recognize. But there is also another type of affinity that I can recognize in these objects
which fulfill their appropriate role – an affinity with the good. These objects are good
not just because they fulfill a need that I happen to have but they are good absolutely
because they fulfill their end. This is a quality of the objects that I may not recognize
immediately, but which I can come to understand through analyzing my love for them.
These objects not only fulfill a role in my life, but can also potentially fulfill a role in the
lives of many other human beings. In this way, I can come to understand the basic
principle that objects are good in so far as they fulfill their end. Once I have accepted
this basic principle of goodness then I can recognize an affinity with objects that perform
their allotted function well even if I am not personally the beneficiary of that function.
This is the standard of love which the virtuous person exhibits and towards which we
should all strive even if we can never fully achieve it.

We come to our understanding of the good through our experience of it and we
are limited in our ability to recognize the good in various objects by our knowledge of
them. We cannot recognize an object as good unless and until we encounter it in some
way and thus obtain knowledge of its ability to fulfill its proper function. Moreover, no object in our imperfect world fulfills its function perfectly. The more experience that we have of an object the better we are able to judge whether an object fulfills its function on the whole well or badly. A brief encounter with a person or a set of laws and institutions is more likely to leave us with a false impression of its functionality. This is true for two different reasons: first and most obviously because a brief encounter will not usually lead to an in depth experience of an object. The more complex and involved an object is the more experience it will require in order for us to understand its various facets and evaluate it as a whole.

Secondly, however, our expectations and standards of functionality will be affected by our own experience with similar objects and our own specific needs. It is easy to recognize a good clock when we see one because a clock performs the same exact function in all human lives. The function of a political community, on the other hand, may be able to be described in general terms which all human beings share but its specific functionality will vary from place to place in a way that the functionality of a clock will not. A political community, like a house or a car, may be good for certain individuals and not for others depending upon their specific needs. All cars should be able to transport people from place to place and if they do not perform this basic function they cannot be described as good. But a station wagon may be good for me because I have four children while a jeep may be good for you because you have to travel-off road a great deal.

Affinity and thus goodness are recognized first through the appetite which reflects our particular needs. Through rational analysis we can come to understand the universal
human goods and affinities that underlie the needs of our particular appetite, but these goods will be more general and the extent to which we can shape our appetite to recognize them will be limited. It is important to note that there is a three pronged relationship at the heart of this understanding of goodness and affinity: myself, the object of my love, and the good. The closeness of my relationship to an object can be measured by both the number and the particularity of the forms that I share with it. I will recognize a greater affinity with a person who shares with me the form of citizen and family member as well as the form of humanity. But I can also recognize a greater affinity with a person who more perfectly embodies my particular understanding of what a good person should be. My love for a person can thus increase with both his or her closeness to myself and his or her closeness to the good. As we shall see, however, this love takes different forms.

6.3 Effects of Love

As we have argued above, love is caused by an apprehension of affinity of some kind between oneself and some object. When I perceive an affinity between myself and an object, I perceive that we are in some way united to one another, that we are in some way one – either united by form or by potency and act. This perception of a certain unity between the lover and the beloved prompts a movement of the soul of the lover towards the object he loves. In other words, it prompts a desire for some greater level of unity. The two different types of perceived unity or oneness give rise to desires for two different increased levels of unity or two different types of love, what Aquinas calls love of friendship (amor amicitiae) and love of desire (amor concupiscentiae). The first type of
affinity discussed above, an affinity of qualities or forms, gives rise to love of friendship. In love of friendship we recognize the other person as another self, someone with whom we share a form, and we desire a unity with them in some sort of society or friendship. When we love someone in this way, we want to be with them, to be near them, to communicate with them and to enjoy each other’s company, to work together to achieve some common end. We desire that our society or friendship should flourish and benefit us both. In other words, we desire to do good to that other person as we desire to do good to ourselves. In this type of love, our desire to do good to other people is caused by but not reducible to a desire to do good to ourselves. We have friendship love towards another person not for the sake of some other good that they may do to us, but for their own sake. Thus, love of friendship can only be directed towards persons or groups of persons. You cannot be friends with a house or a shoe because they do not, strictly speaking have their own good apart from the good of the people who use them.

Friendship requires that the two friends have their own particular goods or ends which they can each desire and it requires the potential of a fellowship or “communicatio” existing between them.

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317 “In a like manner when a man loves another with the love of friendship, he wills good to him, just as he wills good to himself: wherefore he apprehends him as his other self, in so far, to wit, as he wills good to him as to himself. Hence a friend is called a man’s other self (Ethic. ix. 4), and Augustine says (Confess. iv. 6), Well did one say to his friend: Thou half of my soul” (ST 2-1 Q28 A1 Corp, emphasis original).

318 The question of friendship between a human being and an animal or plant is a little bit more complicated. Animals and plants clearly have their own good apart from the good of the human beings who possess or encounter them. However, the potential for communicatio or fellowship is reduced because of the difference in species. I would suggest that there can be a communicatio of sorts between human beings and animals, although it will necessarily be more limited than that which is possible between two human beings. Therefore, there is the possibility of some kind of friendship between human beings and animals. With plants, however, mutual communication and fellowship is not possible so, I would argue, neither is friendship.
The second type of affinity discussed above, the affinity that exists when one perceives in an object a certain actuality towards which one has an inclination, gives rise to what Aquinas calls love of desire (amor concupiscentiae). In this kind of love we perceive a unity between ourselves and the object because “we apprehend it as belonging to our well-being.”\(^{319}\) We desire a further unity between ourselves and the object in question through our possession of certain of its characteristics. The object actualizes some potentiality which we would also like to actualize and depending upon the nature of the actuality in question this type of love can inspire a desire to possess the object (like a pair of shoes), to emulate it (like a great work of art), to take over its position (like a beauty queen), or to learn from it (like a music teacher). In this type of love, we do not see the object as another self but as something which we desire to make a part of ourselves (or part of another person for whom we have a friendship love). Concupiscible or desiring love is, thus, always instrumental. When we desire to possess something or someone, it is always for the sake of the good that it can do to us or to others. Desiring love, unlike friendship love, can be directed towards both persons and things in so far as they are useful in serving one’s own good or the good of others.\(^{320}\)

It is, thus, friendship love, not desiring love, which we may call love in the primary sense. Friendship love desires the good of a person for his or her own sake and not instrumentally. Desiring or concupiscible love is, on the other hand, much more

\(^{319}\) ST 2-1 Q28 A1 Corp.

\(^{320}\) “I answer that, As the Philosopher says (Rhet. ii. 4), to love is to wish good to someone. Hence the movement of love has a twofold tendency: towards the good which a man wishes to someone, - to himself or to another, and towards that to which he wishes the good. Accordingly, man has love of concupiscence towards the good that he wishes to another, and love of friendship towards him to whom he wishes the good” (ST 2-1 Q26 A4 Corp).
common and familiar to us. It can be directed towards many different objects and carries with it the desire for unity through possession of the object in question which is so often associated with love in our common discourse. It is, I would suggest, this desire for possession which primarily exhibits the morally dangerous qualities with which love is associated by those who criticize patriotism. Possession has a necessarily selfish element to it in so far as it involves exclusive rights to or control over an object. Wanting to do good towards a friend on the other hand, does not necessarily involve doing harm towards or taking something away from others.

Aquinas calls this type of love *amor concupiscentiae* or concupiscible love not to suggest that it is always a bad thing, but to suggest that it possesses an inherent tendency towards excess and towards sin. Concupiscible love is directed primarily towards the things of this world, those things which we can possess to the exclusion of others. Clearly, desiring love is not always bad because we have desire towards those objects which we need in order to survive and in order to flourish. But this type of love does not take into account the good of the other, and, therefore, the limits of its appropriate scope are less obvious. Desiring love is also most dangerous when it is directed towards persons and not inanimate objects. There will always be many people in our lives whom we love primarily for the sake of the good they can do for us and not for their own sake, for example those who perform services for us or who entertain us. It is never appropriate to love a person only for this reason, however, because to do so would be to fail to recognize the basic affinity of form which we share with all human beings. We must always keep in mind that all persons have a good of their own which we cannot entirely disregard nor expect them to disregard. This inherent danger of concupiscible
love bears some affinity to the well-known Kantian injunction that we never treat people *merely* as means to our own ends.

6.4 Friendship

I would suggest that it is something like *amor amicitiae* or love of friendship which is the appropriate form of love for a patriot to have towards his country and his fellow citizens rather than *amor concupiscentiae* or love of desire. Properly speaking, the mode of a patriot’s attachment to his or her country should be friendship or *amicitia*. Love is a term that broadly covers a variety of different specific types of attachment. Love is anything that involves a movement of the soul towards (as opposed to away from) some object and in this sense friendship is a type of love, as is charity. However, Aquinas does distinguish *amor* from *amicitia* (friendship) and *caritas* (charity) in the first place through their length or duration. Aquinas describes *amor* as being “*per modum actus*” or in the mode of an act. In other words, *amor* is a temporary response to some external stimulus, eventually the feeling subsides like feelings of anger or joy. Just as an act has a definitive beginning and end in time and space so does a passion like love. When love endures over time it becomes something more like a habit (“*quasi habitus*”), in which a part of our soul is disposed to act in a certain manner given the appearance of certain circumstances. Friendship is this type of enduring love or a disposition to do good towards certain persons.321 When I describe patriotism as a type of friendship, I

321 “We find four words referring, in a way, to the same thing: viz., love, dilection, charity and friendship. They differ, however, in this, that friendship, according to the Philosopher (Ethic. viii. 5) is like a habit [*quasi habitus*], whereas love and dilection are expressed by way of act [*per modum actus*] or passion; and charity can be taken either way” (ST 2-1 Q26 A3 Corp).
mean that it is a type of love which is not a fleeting passion but rather one which endures over time. An act of patriotism, like an act of friendship, requires the appropriate circumstances in order to take place, but the disposition to act is continuously present in the patriot and the friend.

*Amicitia* and *amor amicitiae* are, of course, not unrelated to one another. Just because patriotism is primarily a type of friendship, this does not mean that the patriot cannot, upon occasion, feel passionately about his country. It is easy to see how this works if we compare patriotism to the love that a wife has for her husband or a mother for her children. Parental love and spousal love are also both types of friendship. The relationship between a husband and wife is not characterized by continuous passionate emotions, rather it is characterized more by desire that the other person should flourish and a continuous disposition to help the other person to do so. Passions are by their nature ephemeral because they are a reaction to external stimuli. To try to feel passion towards another person over an extended period of time is impossible, as married couples generally come to understand. If a marriage is to be successful over time it has to be about more than just feelings, it has to involve fellowship in a common project and the mutual desire on the part of both members that they should flourish and improve together. But within this marriage friendship there will often be times when some combination of deeds or circumstances, such as a gift or a shared experience or even a conversation, will conspire to provoke a passionate response. Moreover, most relationships begin with and are sustained by a feeling of attraction brought on by a recognition of a shared form or a feeling of *amor amicitiae*. Married couples are often brought together by a sense of a shared quality or form which provokes in them a desire
for further unity. Also, friendship as a habit needs to be created and sustained by continual acts of friendship. These acts in turn are generally inspired by passionate feelings of love.\footnote{322} In a like manner, patriotism is not primarily characterized by feeling of passionate pride or love for one’s country. However, the habit of patriotism will be inculcated in part through these types of feelings. They will sustain the patriot in his love of his country and they will often be provoked in the patriot when he is confronted with some particular example of his country’s goodness or is reminded of its achievements.

Thus we can see that amicitia and amor amicitiae or friendship and love of friendship are intimately bound up with one another. Indeed, we might describe friendship as a sustained disposition to do what love of friendship inspires us to do, that is, to seek the good of another person. This disposition is formed and sustained by instances of the more fleeting passion of love of friendship. There is one important difference between these two concepts that should be noted. Love of friendship, like all passions, can be completely one-sided. In other words, we can feel this sort of passion for another person without them feeling it for us in return. I can experience love of friendship for a person with whom I have some brief encounter with but who does not know me or is not interested in me at all. On the other hand, just wishing that someone should be happy or flourish is not enough to make them my friend. Friendship requires what Aquinas calls a “communicatio,” which means participation in a common enterprise

\footnote{322 It is true that some marriages, those of convenience or those arranged by parents or family, do not begin with an initial feeling of attraction. However, in order for these marriages to be successful the two parties must share some particular form or quality in common. This shared form will often be a shared understanding of virtue or the good. But as affinities in the practice or the principles of virtue are more difficult to discover the building of friendship will often take a lot of time in these cases. As this friendship develops the more ephemeral passions will accompany it and sustain it. There are also those who will try to sustain a marriage based only on passion, but it is my contention here that they cannot be successful due to the nature of passion itself.}
or association. We can have brief and fleeting passions towards people who pass quickly out of our lives, but in order to sustain a desire to do good towards another person we have to have a continuing relationship with them. In order to become a friend and maintain the habit of friendship we have to act as a friend towards that person, to talk with them, to help them with their problems and in turn rely on them for help, to do activities together. Without such continuous action friendships fade away over time.

Friendship begins with a sense of affinity towards another person. Often there will be a variety of affinities present. There are lots of people with whom we may share these types of affinities, but those whom we call friends are those with whom we have a lasting relation of fellowship and communication, a relationship which we desire to see succeed. When a person goes away to college they will form acquaintances based on affinities with people that are quite arbitrary: being in the same class, sharing the same habits, liking the same movies. Those acquaintances that develop into friendships do so because we get into the habit of acting like friends: hanging out together, working together, having fun together. As we grow and change we may lose those affinities which first brought us together, but the friendship can still be maintained if we continue to act as

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323 Communicatio is often literally translated as “communication,” but Aquinas uses it in the sense of a common participation is some sort of association or fellowship which necessarily involves communication between the various parties. Communicatio is used to describe political, familial, societal and divine associations.

324 “According to the Philosopher (Ethic. viii, 2,3), not every love has the character of friendship, but that love which is together with benevolence, when, to wit, we love someone so as to wish good to him. If, however, we do not wish good to what we love, but wish its good for ourselves, (thus we are said to love wine, or a horse, or the like), it is love not of friendship, but of a kind of concupiscence. For it would be absurd to speak of having friendship for wine or for a horse. Yet neither does well-wishing suffice for friendship, for a certain mutual love is requisite, since friendship is between friend and friend: and this well-wishing is founded on some kind of communication.” (ST 2-2 Q23 A1 Corp) “Each kind of friendship regards chiefly the subject in which we chiefly find the good on the fellowship of which that friendship is based: thus civil friendship regards chiefly the ruler of the state, on whom the entire common good of the state depends; hence to him before all, the citizens owe fidelity and obedience.” (ST 2-2 Q26 A2 Corp)
friends and if we discover new and more profound affinities with one another. Affinities based on pleasure or usefulness will disappear as our circumstances change, but affinities based on a shared understanding of virtue or the principles of the good life are much more enduring, and it is this type of friendship which has the potential to last a lifetime. But even these types of affinities are not enough to sustain a friendship if we do not continue to communicate with one another, to maintain our relationship, and continue to act as friends. If we have not spoken to a person or seen them in many years then we cannot, I would argue, say that we are still friends no matter how many characteristics we share in common. In a like manner, we may share an extraordinary set of qualities, including shared interests and a shared understanding of virtue, with a person on the other side of the world whom we have never met, but we certainly could not describe this person as a friend.

Aquinas’ understanding of friendship clearly draws upon Aristotle’s examination of friendship in Books VIII and IX of the *Nichomachean Ethics*. To begin with, we can compare the distinction which Aquinas makes between *amor amicitiae* and *amor concupiscentiae* to the distinction that Aristotle draws between virtue friendship and utility or pleasure friendship. In pleasure or utility friendships, friends “do not love each other in themselves but in so far as some benefit accrues to them from each other.”325 These sorts of friendships are caused by superficial or accidental likeness that arises from various contingent circumstances, such as enjoying the same pastimes or engaging in the same occupation. This type of friendship is like *amor concupiscentiae*, in so far as it involves not loving the other for their own sake but for some good that they can do for us.

On the other hand, virtue friendship, which Aristotle calls “the perfect form of friendship” arises when two people are similar to one another in goodness. Aristotle maintains that “it is those who wish the good of their friends for their friends’ sake who are friends in the fullest sense, since they love each other for themselves and not accidentally.”

In addition, Aristotle, like Aquinas, understands friendship to involve more than simply a desire for or liking for an object. We cannot be friends with objects that do not have their own good. We also cannot be friends with objects which cannot return our affection. Moreover, being friends with someone also requires more than simply wishing them well. Friends are similar and desire to increase their similarity through an active relationship with one another. “Nothing is more characteristic of friends than that they seek the other’s society.” We can feel goodwill towards another person even if we do not know them or have an active relationship with them. We can also feel good will towards a person without them feeling it towards us in return. Friendship, however, requires a mutual desire of the good among people who are known to one another and interact with one another. This requirement that friendship is more than just goodwill can be compared to Aquinas’ idea that a *communicatio* must exist between friends.

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326 Ibid., 1156b10.

327 “The term friendship is not applied to love for inanimate objects, since here there is no return of affection, and also not wish for the good of the object – for instance, it would be ridiculous to wish well to a bottle of wine: at the most one wish that it may keep well in order that one may have it oneself; whereas we are told that we ought to wish our friend well for his own sake” (Ibid., 1155b28-30).

328 Ibid., 1157b20.

329 “To be friends therefore men must (1) feel goodwill for each other, that is wish each other’s good, and (2) be aware of each other’s goodwill, and (3) the cause of their goodwill must be one of the loveable qualities mentioned above” (Ibid., 1156a3-5).
6.5 Patriotism as Friendship

Thus, having described the nature of love of friendship and friendship itself we can now go on to explain how patriotism can properly be understood as a species of friendship. Friendship, as we have said, is the disposition to act as a friend, to preserve and maintain a fellowship with and to desire the good of another person. Friendship begins with and is sustained by the passion of love of friendship, therefore if we are to describe patriotism as a type of friendship we must begin by examining the causes of love of friendship, that is, knowledge, goodness, and affinity, as they apply to the relationship between a citizen and his country. Before doing this, however, we must deal with an immediate objection to the application of the idea of friendship to patriotism. If the proper object of friendship and love friendship is a person, how can one be friends with one’s country? Does there exist a possibility for communicatio between a person and his or her country? Does there exist the possibility of a mutual relationship of any kind? This is an important objection which must be considered carefully. The easiest way to deal with this objection might be to say that we must regard the political community as a sort of “artificial person” in the same way in which Hobbes regards the state in his Leviathan. However, this answer, while partially true, is not really sufficient to answer the objection.

The political community, as I understand it, is like a person in the sense that it must be regarded as whole directed towards a particular end. However, it is a whole made up of integral parts which are themselves wholes like a house rather than a substantive whole like the human body. The political community has a good of its own but that good is dependent upon and cannot be entirely separated from the good of the
parts that make it up. A better way to explain might be to say that the political
community is not one person so much as it is a group of persons who are united together
to pursue some common end and who develop institutions, practices and traditions to
facilitate that end. We can compare it to any other group of human beings that functions
as a unit dedicated to some end, such as a sports team or a university. The group has an
end and thus a good of its own which is not identical with the good of any one of its
individual members. The good of the basketball team may require the coach to bench
one of his players even if it would be better for that player to gain experience by
continuing to play in games. However, the good of the team cannot be separated entirely
from the good of the players because the players are necessary for the team even to exist.
If you strip away the uniforms and the fans and the trophies, a team can still exist as long
as there is a group of players united together by their common goal of playing basketball
and continuing to play on a regular basis. However, if you had no players then you
would have no basketball team. There would also be no basketball team if there was no
basketball for them to play with and no court on which to play. Moreover, if the same
group were to get together and decide to play baseball instead, we would say that the
basketball team had ceased to exist and a baseball team had been created.

A political community, like a basketball team, is a group of persons dedicated to
pursuing a common end and like a basketball team it has a common good which is not
identical with the good of any one of its members. In this sense, it is possible to be a

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330 As with a basketball team, citizens are essential to the existence of a political community as is
the existence of a common end. Additionally, the end of a political community, like the end of the
basketball team, is specific and particularized. There is a general end of political communities and that is
to provide an opportunity for its citizens to both rule and be ruled. But the end of any particular political
community involves its specific understanding of what it means to rule and be ruled and specific
institutions and practices designed to facilitate that end. In a like manner, there is a general end of sports
friend to a political community just as it is possible to be a friend to a basketball team because these groups have a good which the friend can help to facilitate. In this way, a political community is different from a pair of shoes or a house. But there still remains the question of a communicatio, the communication and fellowship that is necessary in order for friendship to occur. Obviously, this communication and fellowship between the patriot and his political community will not work in precisely the same way as friendship between two individual persons, but we can draw an analogy. In order for a group of persons to be a whole the group has to be able to act as a whole. This means that the group has to be united in pursuit of a common end with a person or group of persons who is recognized as representing the will of the group as a whole. In the case of the basketball team, this person may be the coach. When the coach signs his team up to play in a basketball tournament it is understood that he speaks for the team. In a like manner, the representatives of a political community, the president or head of state or other officials, can act for the political community as a whole. However, this representation is limited to acts and statements that relate to the end of the group as a whole. The basketball coach’s views on politics are not recognized as representative of the team as a whole and neither are the president’s views on basketball representative of those of the political community. Because of this sort of representation it is possible for communication and fellowship to occur between a group of persons and someone who is their friend.

teams that might be described as the pursuit of entertainment and health through organized competition. However, the end of a particular team will involve pursuing a particular sport in particular circumstances with particular principles, such as the pursuit of competitive amateur basketball for men between the ages of 10-15, to name one example.
Having dealt with this objection we can now move on to a discussion of the causes of patriotism. As we have said above, love of friendship (indeed love of any kind) requires that a person have knowledge of the object, that he or she perceive that object under some aspect of the good, and that he or she perceive an affinity between themselves and the object. There is also the possibility that patriotism does not begin with a feeling of love of friendship but is inculcated like other habits through acts of friendship towards one’s country. This method will still require, however, knowledge of the object and eventually a perception of affinity and an understanding of the object’s goodness in order to sustain it. Although knowledge of the object, perceptions of affinity, and perceptions of goodness are all intimately related, as has been illustrated above, I will try to discuss them all in turn, beginning with knowledge.

Because the object of patriotic attachment is not a substantive whole which is immediately perceivable as a whole (as an individual person is), coming to have knowledge of it occurs in a slightly different way than coming to have knowledge of a person. The political community has to be presented to an individual as a whole by someone else. This is usually first accomplished by a parent or a teacher by means of symbols and a patriotic narrative. This may seem to indicate that the political community is an artificial or imagined object, but I would suggest that the same type of process occurs with any group of persons. The basic family group is based in biological necessity but it still has to be presented to children by parents as a group to which some obligation or loyalty is owed. The exact contours of the group, whether it includes grandparents or aunts and uncles or even some biologically unrelated person, can vary
quite a bit. Parents teach children about various familial roles and expectations mostly through example and present to their children a family narrative and family traditions. All families have these things, but the particular form that they take varies a great deal. The family as a whole, as a group, is not something that can be immediately perceived by an individual because it is more than just the sum of its members. When a child is young, the roles are simple and the narrative is somewhat expurgated, but as the child grows, roles change, more aspects of the narrative are revealed and created, and the child can turn his or her moral judgment upon family practices and traditions.

A citizen’s knowledge of and relationship to the political community develops in a similar manner. When a citizen is child, the political community is presented to him or her through symbols and a simple narrative. These symbols will probably include the flag of the country or the national anthem. In addition, participation in national celebrations or festivals such as the Fourth of July, Thanksgiving, and Memorial Day help the child to perceive of him or herself as part of the political community and to learn about the nature of that political community. These traditions, celebrations and symbols have to be accompanied by some kind of a narrative which recounts the political community’s goals, history and achievements. Different sub-national cultural, ethnic and geographical groups will have their own take on the national narrative, including some aspects and excluding others depending on what is of particular importance to them. However, there does have to be some coherence to the narrative throughout the political community in order for the citizens of a political community to be united by their love for a common object. The narrative gives context to the symbols and public celebrations to which citizens are exposed. Moreover, because the whole of the political community is
not something which can be immediately perceived by the individual a common narrative is even more necessary to the existence and unity of a political community than it is to other sorts of groups. The political community appears to us through various representations – traditions, celebrations, symbols, and a historical and aspirational narrative as well as institutions and officials – but none of these is identical to the political community itself nor can any one of these by itself represent the whole of the political community.

A citizen’s knowledge of his or her political community is essential to patriotism because we cannot love something of which we have no knowledge. As was mentioned above, this knowledge does not have to be perfect but it has to be present in order for patriotism to exist at all. It is important to note, however, that knowledge is not a static thing. As a citizen grows and changes over a life time, his or her knowledge of the political community, like knowledge of parents, will alter and mature. Our increased knowledge of the political community comes from an increased experience of it, greater participation in public life and more exposure to the events of both our past and our present. When we are children, our knowledge of the political community may be limited to recognizing the flag and the president and remembering the stories of national heroes. As we grow older, our knowledge increases in sophistication and depth. We come to realize that the president is not identical with the country and that we can disapprove of his policies while still loving our country. We also come to realize that our country’s history is made up of more than just heroes and victories; it encompasses great crimes and great tragedies as well. We come to understand that our childhood political heroes are just as human and prone to failure as we are. As we grow, our understanding
of our political community becomes more nuanced in just the same way that our understanding of our parents matures along with us. We come to understand that, while nothing in this world is perfect, there are many things which are on the whole good. A belief in the perfection of one’s political community is just as inappropriate for an adult as belief in the perfection of one’s parents.

As we can see, the knowledge that we have of the political community has, from its very beginning, a distinctive moral character. As we have said, in order to love an object it must appear to us under some aspect of the good. When we are children, whether or not we see our political community under some aspect of the good depends a great deal upon how it is presented to us by our parents and teachers. If the political community is presented to us as something oppressive and harmful, something which has historically treated our particular group or family badly, something which has violated citizens’ rights and abused their trust, then we will be very unlikely to develop an affection for it, at least early on. Thus, whether or not our parents see the political community as something on the whole positive or negative will have a profound effect on our ability to be patriotic. Parents and teachers can present a positive or negative view of the political community through their recounting of our common historical narrative as well as through their attitude towards government officials and towards public celebrations and traditions. The first and most obvious way in which we can come to see an object under some aspect of the good is by someone that we trust telling us that it is good. America can be portrayed as a political community continuously struggling to actualize the principles of equality and freedom for all people or it can be portrayed as a menacing force which hypocritically uses the language of rights to mask its own endless
pursuit of power and wealth for the privileged few. We can also come to see the political community as good through having positive experiences that we associate with it. If, when we are children, we participate in and enjoy national celebrations and festivals, this can help create a positive image of the political community in our minds. If, on the other hand, we do not participate in public celebrations we will not necessarily come to regard the political community as something of which we are a part.

As we grow older we will necessarily learn more about our political community, through our own experience of it and interaction with its various representatives as well as through our increased knowledge of its history and present activities. Everyone as they grow into adulthood will have both positive and negative experiences of government. Everyone will have experiences with the government that they regard as unpleasant and perhaps even severely damaging, whether it be waiting in line at the DMV or having a run in with an antagonistic police officer, serving on a jury or paying taxes. As adults we will experience many times in which we disagree with our government’s policies whether we regard those policies as fundamentally unjust or simply mistaken. No human being is perfect and a political community, because it is a group of human beings dedicated to a particular end will never perform perfectly either. But most people will also have positive experiences of their political community, moments of great communal achievement that inspire pride, an experience of the system working well and justice being done, the passage of laws and policies that improve the lives of ourselves and our fellow citizens or even just the experience of citizens working together to achieve some good end. We will experience the political community as good when we experience it as fulfilling its proper end in our lives, providing us with security
and basic goods, providing us with a just order, and allowing us the opportunity to both rule and be ruled in turn. Given the complexity of a political community, however, it is perhaps true that the good experiences will often be outnumbered by the bad ones. The more complex the structure of a group or institution the more difficult it will be for it to perform its function well.

How then can a patriotic affection survive these negative experiences of government especially given the fact that they will often outweigh the positive ones in the lives of adult citizens? It is here that we must turn to the idea of the perception of affinity between the citizen and his political community. As we have argued above, in order for a person to perceive an object as good he or she must perceive some sort of affinity between him or herself and the object. This affinity, as we have said, can be of two different types: an affinity of form or quality and an affinity of potentiality and act. The second type of affinity is that which we perceive between ourselves and something that we need or desire to possess. It is possible to feel this type of affinity for one’s country, when, for example, it provides us with security and basic human necessities such as food and shelter. If a citizen sees the political community as a source of things that he or she needs or wants, then he or she will love it for that reason. But this type of love is only an instrumental type. When we love an object in this way we do not care about its own good; we only care about what good it can do for us. If another object were to come along which could supply those things more easily or better, then our affection would shift towards this new object. We would want the object to survive and continue to provide us with those goods we need, but we would not sacrifice our own good to
achieve its survival. We do not see the object as an end in itself but only as a means to our own happiness or pleasure.

This type of love towards one’s political community is quite common, but it cannot, I would suggest, legitimately be called patriotism. This is the type of instrumental view of the state encouraged by the social contract view of government. The state exists only to protect the rights of individuals which are insecure in the state of nature. The individual desires the state only in so far as it provides for his needs and is not interested in its good apart from the goods that it provides to him or her. If another state is better able to provide those goods, there is no reason why the individual citizen should not transfer his or her affection and loyalty to another state. There is also no reason why the individual citizen should sacrifice his or her life to preserve the state. The desire that results from an affinity between potentiality and act does not take into account the needs of others and it does not regard the object of desire as something which has its own good apart from the good of the person who desires it. To the extent that citizens see the state in this way they will not be inclined to sacrifice their own good for the good of the state as a whole, nor will they be inclined to work to improve the state except insofar as that improvement directly benefits them.331

The affinity that the patriot feels for his country, on the other hand, is the affinity involved in love of friendship, the affinity of form or qualities. The patriot sees his fellow citizens as all members of a particular group dedicated to pursuing together a

331 I do not mean to suggest here that it is empirically true that all citizens of states based upon the social contract theory of government are incapable of having genuinely patriotic feelings towards their countries. I merely mean to suggest that the individualistic nature of the social contract encourages citizens to view their country not as an object which possesses its own good, but as an object which exists to serve their individual needs.
distinctly political end. An American citizen can recognize this affinity between himself and a French citizen in so far as they both perform their required roles within their own political communities. However, the affinity that one American citizen shares with another is the quality or form of being an American citizen. Recall that when a person recognizes an affinity of form this does not mean simply living through the same experiences. The recognition of an affinity of form is a recognition of sameness in act (idem in actu). Thus in order for us to recognize an affinity of form with our fellow citizens both they and we have to act as citizens and not just any type of citizens, American citizens. “Citizenship” in our common political discourse is a technical and legal distinction: one becomes a citizen either by birth or naturalization and one is then entitled to certain privileges and protections from the government. When I speak of “acting as a citizen” here, I mean actively participating in the common efforts of the political community to pursue its particular end. The specifics of this will differ from country to country, but in America we can say that it generally involves things like voting, paying taxes, abiding by the laws, and serving on juries and in the military when required. These are the basic requirements, but acting as a citizen can also mean acting to improve our country in whatever ways we can. We recognize an affinity of form with our fellow citizens because they perform these actions, not simply because we happen to have been born in the same country. In the same way that a soldier will not feel affinity of this sort with a member of his company who turns and runs from battle, so citizens will not feel this affinity with those who fail to pay taxes or never vote.

The affinity discussed above is an affinity which the patriot recognizes between himself and his fellow citizens considered individually, acting as members of the political
community. This type of affinity will depend upon the behavior of individual citizens at different times and in different places. But there is also an affinity which the patriot must recognize between himself and his political community considered as a whole and this also must be an affinity of form. The patriot will recognize an affinity between himself and his political community considered as a whole if he sees it as fulfilling its allotted function well. If, indeed, a person understands the basic principle that goodness is related to functionality, he or she can recognize an affinity between him or herself and any object which performs its function well. It is a fundamental principle of this argument, however, that no object can perform its function perfectly. Various objects can, on the other hand, be considered good on the whole if they perform their function for the most part well. This judgment, about whether or not an object, given its various failings, on the whole performs well is a rather difficult one to make. With an object such as a clock it is fairly easy to judge if it performs its function well in general. All we need ask is if it keeps good time. However, even with something as simple as a clock there will be particular circumstances that need to be considered. All clocks lose time, but if I am running a scientific experiment I will need a clock that is as accurate as possible and I will not be much worried about its aesthetic. If, however, I want a wristwatch then I will perhaps be happy with one that does not mark the minutes and has only four numbers as long as it looks good on me and matches my clothes. Thus, a more accurate judgment can be made about the goodness of a clock only by particularizing its purpose and looking at the specific needs of the person involved.

When it comes to human beings and groups of human beings, such as political communities, these judgments become even more complex. How do I answer the
question is X on the whole a good person? I can present a general idea of human
flourishing which includes basic physical survival as well as harmonious social relations
and development of the mind as far as is possible. This does not mean, however, that a
person can only be a good person when they have their every physical need well provided
for, never fight with their family or friends, and have several post-graduate degrees. In
order to judge if a person is flourishing on the whole, I have to look at the particular
circumstances of their life. Does the person conscientiously perform his or her job well
and to the best of his or her ability? Is the person a father or a mother or a friend and if
so how does he or she perform that function? I can never know someone perfectly, and
my judgments will pretty much be limited to particular events in their life or interactions
with them that I have experienced. When I witness that person, behaving like a good
parent or making a sacrifice to help a friend I will feel an affinity towards them because
in that moment I see them functioning well as a human being. Feelings of love of
friendship for another person will be based upon perceiving them at some particular time
and in some particular way functioning well as in some particular role in their life.
Judgments about whether or not a person is good on the whole are very difficult to make
because of our necessarily limited knowledge and experience of the person. They are
judgments which we are not well equipped to make and which we should, perhaps, for
the most part refrain from making.

Political communities, as groups of human beings dedicated to a particular end,
are similarly difficult to judge. Overall the purpose of a political community is to provide
for its citizens to rule and be ruled in turn. But if we were to attempt to judge a political
community in terms of this general end, to weigh up what we perceive to be its good and
bad qualities and pronounce on its character as a whole, we would, perhaps, not be very
successful. As I have suggested before, even two citizens who agree about a country’s
particular failings can come to different conclusions about whether it is on the whole
good. We see this constantly in our public debates over patriotism and the evils of
America’s past. Some people consider the crimes of slavery and racial discrimination as
well as the oppression of women and the continued suffering of the poor in America to be
sufficient to regard the entire enterprise as hopelessly flawed. Other people, while
acknowledging these failings, judge that America is still a worthwhile enterprise and does
the best that it can to serve its people. I am not at this point suggesting that there is
nothing to choose between these two opinions, but simply that the judgments they call for
are rather difficult to make. The affinity that a patriot recognizes for his country will
usually begin with an experience of it functioning well in particular places and in
particular circumstances. This can mean, as was mentioned above, having a positive
experience with the representatives of our political community such as government
officials, public debates and public celebrations. However, much of the good that our
political community does in our lives does not come from these sources and much less
obvious.

The purpose of the political community, as we have said, is to provide us with the
opportunity to both rule and be ruled in turn, as well as the security, basic goods, and
rules of justice which are necessary to bring this about. But if the political community
does this well, it will not always be in ways that our immediately obvious to us as the
work of the political community itself. I have suggested before that the love of familiar
surroundings - family life, hometown, etc. --comes about as a result of experiencing these
things as good. We experience them as good when they provide us with certain basic needs like harmonious social relations, security, entertainment, food and shelter. It is easy to take these things for granted and not realize that it actually takes work and planning and on the part of various groups of people to bring them about. They are simply the background to our lives, those things which we use in order to pursue our particular interests and goals. Love of these familiar things is often unreflective but not without reason and, therefore, not irrational. The political community as a whole often performs a similarly unacknowledged role in our lives. If the political community is functioning well, like the family, we often take its services for granted. If it is functioning well it provides us with the basic security and enforcement of laws which allows us to pursue our life plans for the most part without fear. Its laws and institutions allow us the freedom to make choices and structure our lives within certain necessary limits. It allows us the freedom to participate in the public life of our political community and to express our opinions about how our common life should be structured. In short, it allows us the opportunity to both rule and be ruled in turn.

The precise contours of how this freedom manifests itself in our lives will, of course, differ from society to society. The feeling of an affinity of functioning well will depend upon our particular expectations about the amount of freedom and security that we should have in our lives, and this in turn will depend upon what we have been used to and what we have been educated or come to believe is right. But I would suggest that if citizens do not feel generally free to live according to their own life plan, if the government tells them how to work and where to live, if they are afraid of their own government or generally live in fear of their fellow citizens, if they have no voice in the
way in which they are ruled or no ability to express their opinions on the subject, then they will not see their political community as functioning well and will not feel a basic affinity for it. On the other hand, when citizens do feel a basic sense that their country is good and express a general sense of patriotism, this is a result of the fact that they feel that they are not simply ruled but also rule in their personal lives and in their common life. Moreover, they attribute this basic ability to both rule and be ruled to the efforts of the political community as a whole and the structures and institutions which it has put into place. In other words, they feel a sense of affinity of form with their political community. The political community as a whole actualizes a particular form, the form of a well-functioning object, which the individual recognizes within him or herself.

The question of the relationship between affinity and goodness is a complex one. The greater the affinity between ourselves and an object the easier it will be to perceive. As human beings we have the potential to see affinity between ourselves and any person or group of persons that performs their function well. Thus, we have the potential to desire to good of other citizens and of other countries, regardless of whether or not they are our own. However, our ability to perceive an affinity will depend upon our knowledge and experience of those other countries and citizens. As citizens of America we can have a general idea about how well other countries function and whether or not their citizens perform their roles as citizens well. But because we have been brought up and educated in America our expectations about what are the proper limits and obligations of the political community will be different from the expectations of, say, a citizen of France or Great Britain. Moreover, our ability to know how well some other political community functions will be severely limited by our positions as outsiders.
Affinities of form can exist at higher or lower levels of generality, the more particular an affinity of form is the easier it is for us to perceive. An affinity between American citizens is easier to perceive than the affinity of a French citizen and an American citizen, just as the affinity between two baseball players is easier to see than the affinity between a good baseball player and a good hockey player. However, it is certainly possible to see these general levels of affinity and thus for love of friendship between citizens of different countries to exist.

In order for friendship to exist between two persons or groups of persons, however, something more than just a basic affinity is required. The friendship that exists between a patriot and his or her political community requires not just an affinity of form, but also what Aquinas calls a *communicatio*. *Communicatio*, as we have said, involves the two persons being united together in a fellowship of mutual action and communication. If friendship is the habit of desiring the good for another person (or group of persons), then, like all habits, it has to be formed through actions. Friendship often begins with an initial feeling of affinity of form towards the other person, which leads us to desire to do good for that person. However, it can also be formed by a simple determination to act like a friend. Friendship cannot be continued and sustained, however, unless the two parties discover some sort of affinity which binds them together in fellowship. Friends must communicate with one another; they must continue to act like friends and do good to one another. Moreover, the way in which the parties act towards one another, the extent and contours of their obligations, will depend upon the nature of the shared affinity which unites them. If the shared affinity which unites us is playing baseball or making music, then our actions and communications with one another
will center around those activities as will the extent and nature of our obligations to one
another. I may be friends with someone through our shared affinity of making music but
with whom I do not discuss my personal relations and from whom I would not seek
advice or rely on in those areas. If the friendship is to outlast the circumstances that
brought us together or survive through changes in interests and activities, then it must
deepen and grow based on some other affinity such as an affinity of virtue.

The friendship between a patriot and his or her political community and fellow
citizens will often develop along the same lines as personal friendships. It may begin
with a basic affinity of a common past, common traditions, and a common language. The
arbitrary fact of finding oneself in common circumstances is often the beginning of many
friendships. But for love of friendship to develop we have to see an affinity in another
person which involves actualizing a certain form. When we see people acting like
citizens or participating in politics and positive social action we can feel an affinity of
form for them and thus love of friendship. Friendship itself, on the other hand, only
develops through common action, communication, and a mutual activity to promote the
good of the other. Friendship between a patriot and his or her country will not be
precisely like friendship between individual persons because a political community is a
group of persons. An individual patriot cannot communicate with his country as a whole
except through its various representations. Moreover, the patriot is not only the friend of
the political community he or she is also a member of the political community as a
whole. Communication and fellowship can take place, however, through the actions of
individual citizens towards one another in their capacity as citizens, by the actions of an
individual citizen towards his political community as a whole, and by the actions of the
representatives of the political community towards its citizens both considered as a whole and considered individually. This sort of *communicatio* can exist between a citizen and his or her own political community, that is, the political community of which he or she is a member and in which he or she resides in, but it cannot exist between a citizen and some other political community. Thus, we can see how, although it is possible to feel and affinity of form with a political community that is not one’s own and thus it is possible to desire the good for it, it is not possible to be friends with it.

Finally, it is important to note that friendship, as any other disposition or habit must be formed and maintained by acting in a certain manner. We form the habit of acting in a certain way by repeated action of that sort. No one is born courageous, but rather we form the habit of courage by acting in accordance with the dictates of courage even when we would rather run screaming in the other direction. Eventually we will react automatically with courage when the circumstances call for it and will be able to discern what the courageous action is in various situations. The habit of friendship, and indeed, the habit of patriotism, is formed in a similar way. We may not initially desire to act as a friend towards our political community; we may be inclined to prefer government policies which favor our own group over the whole; we may be inclined to skip community meetings and bow out of the neighborhood watch; we may be inclined to see politics as having nothing to do with our lives and decide to get our nails done rather than

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332 When individual citizens interact with their fellow citizens in matters pertaining to their common life, such as helping to participate in community projects or organizing to express their political opinions, when government officials interact with individual citizens in the capacity as representatives of the political community such as when police officers provide protection or legislators respond to individual constituent problems or when representatives interact with the political community as a whole particularly in the formation of public policy, these are all instances of a *communicatio* existing between the citizen and the political community.

344
go to the polls on election day. However, we can choose to act like a friend to our
country and so get into the habit of behaving like a good citizen and trying to see how our
common life affects us all. Eventually, if our political community functions on the whole
well, we will be able to see an affinity between ourselves and it. We will be able to form
the habit of being friends with our country and thus to become patriots.

6.7 The Effects of Patriotism as Friendship

What then does it mean to act as a friend to one’s country and for it to act as a
friend towards you? Love of an object manifests itself in a desire to achieve a more
complete unity between oneself and the object. When this love is a “love of desire”
(*amor concupiscentiae*) this means desiring to possess some particular actuality that the
object possesses – beauty, talent, material goods, etc. However, when it comes to “love
of friendship” (*amor amicitiae*) one desires to achieve a fuller unity through bringing the
object and oneself in a closer relationship to the good. One desires to make the affinity
between oneself and the object greater while at the same time respecting the existence of
the object as a separate and distinct whole from oneself. The only way to accomplish this
is to increase the extent in which you both participate in a shared good. In other words,
where love of desire causes the desire to possess, love of friendship causes the desire to
improve the object of one’s affection in terms of the affinity that you share. If, for
example, the affinity that you share with another person is flute playing, then love of
friendship will manifest itself in a desire to see you both achieve a greater proficiency in
flute playing. Your unity will be increased by both of you improving in your flute
playing and participating more fully in the good of being musical. As you both improve
you will become closer by sharing in the good and approaching the perfection of music. The good that you desire for your friend is thus related to the affinity that you share. The more affinities that you and the object of your affection share the more the facets of your common life there will be in which you desire mutual improvement. The greatest form of unity possible is a unity between people who share an affinity for all of the virtues.

The affinity that a patriot shares with his or her fellow citizens and with the political community as a whole is an affinity in a particular understanding of the political good. The political good can be stated generally as providing citizens with an opportunity to both rule and be ruled, but this general good can be particularized in a myriad of ways. Each society over time will develop different methods for the participation of individual citizens in the common life, different understandings of the requirements of justice necessary to maintain that common life, and different ideas of how the political community as a whole can provide an opportunity for citizens to both rule and be ruled. When we feel love of friendship towards our fellow citizens and our political community as a whole, it is in these country-specific particular ways that we desire our improvement. This desire to improve also must necessarily include a desire to see the political community survive through time.

Friendship, of course, means not just well-wishing or desiring that another person should survive and improve, it also means acting in those ways that we can to bring about both survival and improvement. What this requires in terms of specific action will inevitably vary over time depending upon both the given circumstances of the moment and our own ability to act. When a patriot is presented with an opportunity to act to maintain and improve his or her country, just as when a parent is presented with an
opportunity to maintain and improve his or her child, that opportunity always occurs in a particular context and the scope of the possible choices is limited by that context. I can know in general what it means for a human being to flourish (food, shelter, health, intellectual and moral development) and I can also know in general what my particular society conceives of as a flourishing human life (having a college education and a good job, owning a house, etc.), but a friend must act in such a manner so as to promote the well being and improvement of his or her friend in particular. I cannot know how to act towards my friend Emily unless I take into account her experiences, her abilities, her education, her particular needs, and her desires.

In a like manner, acting as a patriot always occurs within the particular context of an individual citizen’s life. Depending upon the needs and circumstances of one’s political community as well as one’s own particular resources, a variety of different actions can be regarded as the actions of a patriot, but there are some generalizations that we can make. A friend desires both to sustain and improve the object of his or her attachment. Just as a human being requires certain necessities in order to live, a political community requires certain basic things in order to survive. Most obviously, a political community needs to be defended by force when it is attacked. A political community cannot function if it is overrun by invaders and as long as human beings continue to be flawed there will continue to be wars – wars for both material and moral supremacy.333

333 I here reject the premise, supported by Martha Nussbaum and many others who follow in the Kantian tradition, that human beings can achieve a state of “perpetual peace” in this world. Our state is unfortunately characterized by a scarcity of material resources together with a superfluity of competing ideologies, both of which routinely lead to violent conflict. I do not believe that the vision of the world presented in Kant’s “Perpetual Peace” can ever be fulfilled. Nevertheless, it is not necessary to accept my position on this point in order to see that an important part of what it means to be a friend to one’s country is to work as far as possible to ensure its survival. There will, of course, be certain people for whom fighting is simply not possible and there will also be, as I will argue, a point at which fighting will no
As long as the physical defense of the political community continues to be necessary it will be necessary for some of its citizens to actively participate in defending it. Those who are truly friends of their country will not only desire that it should survive, but act as much as they are able to ensure its survival. This may mean serving in the military or merely supporting its activities in a variety of ways. Physical defense is the most basic way in which we can act to sustain our country as we would act to sustain a friend who was being attacked. However, it is only rarely that we are called upon to act in this manner.334

There is also another more common way in which a citizen can act to sustain his or her political community. As we have said in the previous chapter, justice is that internal structure by which a political community is preserved and maintained. The rules of justice and the laws which instantiate and particularize those rules are designed to promote order and harmony within the political community, to structure relations within it so that it can function as a whole and promote its end of providing its citizens with an opportunity of both ruling and being ruled in turn. The laws thus maintain the political community and being a patriot generally means abiding by and upholding those laws. As Socrates maintains in the Crito, destroying the laws, creating an atmosphere in which the laws are continually and willfully disobeyed, will surely spell the end of any political community.

longer serve any legitimate purpose. I do not think it inappropriate, however, to suggest that the physical defense of one’s country can generally be considered the act of a patriot.

334 There are limits to the extent to which a patriot can or should act to preserve his or her country, and these will be outlined in detail in the next section concerning the “Limits of Patriotism.” Suffice it to say for the moment that all political communities, like all people, will eventually reach a point where they can no longer be preserved and when continued attempts to do so are not only unnecessary but also immoral.
A political community is a group of people acting for a common purpose and as such it requires representatives and institutions in order to act at all. Some of our laws create and regulate these institutions and representatives and without them the political community cannot act as one. There are also certain activities on the part of individuals which destroy the harmony of the group, activities which I have called universally anti-social behaviors, and these are prohibited by our laws governing murder, theft, fraud, etc. There are also certain particular laws which lubricate the activities of our everyday common life, such as speed limits and public nuisance laws. All of these different varieties of laws maintain the fabric of our common life as a political community and allow us to pursue with relative ease both our common and our individual goals. Maintaining the political community, thus, generally requires support of the rule of law. This means obeying the laws ourselves and helping to see that others obey them as well.

The actions of a friend, however, extend beyond mere obedience to the requirements of the laws. Aquinas maintains that friendship, like justice, is a moral virtue, a disposition of the will with regard to how we should act towards other people. However, where justice involves giving to another what is due to them, friendship involves something more. Friendship involves moving beyond what is strictly due to another into the realm of what Aquinas calls “gratuitous favors” (*beneficii gratuiti*).335 We might say that while justice involves maintaining others (or the group) in what they already have, friendship involves improving them, bringing them closer to the good. For

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335 “The Philosopher (*Ethic.* viii) does not deny that friendship is a virtue, but affirms that it is ‘either a virtue or with a virtue.’ For we might say that it is a moral virtue about works done in respect of another person, but under a different aspect from justice. For justice is about works done in respect of another person, under the aspect of the legal due, whereas friendship considers the aspect of a friendly and moral duty, or rather that of a gratuitous favor, as the Philosopher explains (*Ethic.* viii, 13)” (ST 2-2 Q23 A3 Ad 1).
example, justice requires that I refrain from harming another person and respect their property; however, friendship requires that I help them to become a better person and give them what they need in order to do this. Being a friend to one’s country thus involves more than keeping to oneself and obeying the laws. It requires us to do more than simply maintain the *status quo ante*. In our day to day interactions with our fellow citizens this means that we must do more than simply refrain from hurting or inconveniencing others. The good neighbor is not the person who simply refrains from having wild parties or from destroying their neighbor’s property. The good neighbor is the person who actively takes a role in making the neighborhood better, who reports a crime when he or she sees it taking place, who participates in the neighborhood watch, who helps to lobby the city for new crosswalks or street signs, who goes to community meetings and gets to know his or her neighbors, who chips in time or resources to host a block party. In short, being a good neighbor means trying to work with your neighbors to make the place that you live better, not just refraining from making it worse.

When it comes to the relationship between the citizen and the political community as a whole, a relationship mediated through representatives of the political community, the same sorts of rules apply. The patriot is the person who tries, in whatever way possible, to make the political community better rather than simply refraining from making it worse. This can mean a variety of things depending upon the circumstances, but in general we might say that it means considering and advocating what is good for the political community as a whole rather than simply what is good for me personally or for my particular group. When a patriot considers what policies he or she thinks that the political community should adopt or which persons should be its leaders or
representatives, the patriot should advocate those policies and vote for those persons that he or she thinks will serve the country best as a whole. Being a patriot, thus, means participating in politics through voting and expressing one’s opinions, to be sure, but it also means doing so on the basis of what one thinks is good for the whole. This may sometimes mean acting in a way that is not beneficial to oneself or one’s group, giving up a tax break or a free medical service because in the long term the country cannot afford them, for example.\(^{336}\)

It perhaps goes without saying that this is not an attitude that we, as Americans, are particularly encouraged to take up. From Madison’s arguments about faction in *Federalist 10* to contemporary interest group theory, our institutional and political system is often seen as being built upon the idea that if all pursue their own particular interests (or the interests of their faction) then the overall result will be best for everyone. Even if this were true, I would suggest that this is not the proper attitude for a patriot. A patriot must understand his or her political community to be a whole and as a whole there are things which can be understood as good for it as a whole and bad for it as a whole. A patriot is not a friend to his or her own subgroup but to the political community itself. Even so, I think that there are many ways in which we can see that the factionalist, or what we might call the “invisible hand theory of government,” does not really serve the interests of everyone. If, when legislators get together to formulate policy, they respond primarily to the influence of various interest groups, then those groups which have the

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\(^{336}\) When Aristotle speaks of *homonia* or the type of friendship that characterizes the relationship between citizens, he says that “concord [*homonia*] is said to prevail in a state when the citizens agree as to their interests, adopt the same policy and carry their common resolves into execution. Concord then refers to practical ends, and practical ends of importance, and able to be realized by both or all the parties” (*Ethics*, 1167a26-30).
most money or a special relationship with the legislators will necessarily have more influence than others. There will be some interests in every policy area which cannot be effectively organized or do not have the resources of money to gain access to legislators. Formulation of policy becomes little more than horse-trading among special interest groups and constructing a policy which has a coherent end and coherent means to achieve that end becomes almost impossible. The extremely complicated nature of our tax code in this country can be seen as just one example of this sort of problem. This is not the place to construct a full argument against factionalist or interest group politics, all I mean to suggest here is that there are some obvious problems associated with it and that whatever its virtues might be it is not an approach which is compatible with patriotism as I understand it. 

It seems appropriate at this point to consider the vexed question of dissent and its place in the duties of a patriot. Given that it is part of the role of a friend to improve the object of his or her attachment, criticism of that object will certainly have its place. One cannot improve in one’s character and behavior unless one is aware of the ways in which one falls short of the good. Certainly, it is part of the duties of a friend to point out these short comings to us and suggest ways in which we can improve. However, all forms of criticism are neither meant to nor are likely to bring about improvement and therefore all types of criticism are not appropriate to the patriot. Some criticism is simply wrongheaded because the critic does not have enough knowledge of the object which he or she is critiquing. Criticisms that are specific are more useful than general criticisms.

337 For a more in depth examination of these problems in the context of the European Union see Chapter III, p. 192-3.
and specific criticisms require a greater knowledge and experience on the part of critic. It is also important to consider the intentions of a critic. Some criticisms are meant in order to improve the object and others are meant to destroy it. The role of the patriot is clearly to offer criticisms of his or her country that are meant to improve it rather than to tear it down.

The intentions of a critic are often opaque, however the type of critique offered and the history of the person offering it can be useful guides when it comes to understanding the intentions of the critic. We cannot always tell the difference between patriotic and unpatriotic forms of criticism based solely on the content of the criticism itself, but we can make some useful generalizations. First of all, there is a difference between criticism of parts and criticism of wholes. Although, a patriot will certainly be aware of the ways in which his country falls short of perfection, as all human institutions must, he desires to improve his country and believes that it is, on the whole, both capable of and worthy of being saved. On the other hand, a critic, in the strictest sense of the term, is not committed to the survival of the object of his criticism one way or the other. The criticism of the patriot, coming as it does from his commitment to the survival and improvement of the object, will be directed towards the failings of its various parts. He will see a policy or a law that he thinks should be changed or an institution that could be made more efficient and he offers criticisms designed to bring that about. A criticism that questions the very existence of the object itself, as a whole, one that pronounces the political community to be inherently flawed and in need of a complete overhaul or even destruction, will not be the type of criticism offered by a patriot. We can see this difference very easily when we think about the type of criticism that we might offer to an
individual person. There is a difference between saying to a person that they have some bad habit or particular flaw and saying to them that they are, on the whole, a bad person. The former is the attitude of a friend and the latter most assuredly is not. A criticism of a particular habit or personality trait encourages improvement or change. Condemning someone as a bad person, however, simply promotes despair. It undermines what we call self-esteem or the basic belief a person has that they are worthwhile despite their obvious failings.

Another distinction between helpful and destructive criticism is that helpful criticism will always be specific to the circumstances and context of its particular object. As we have said before, it is possible to speak of a general good of both human beings and political communities, but there are a myriad of different specific ways of manifesting or instantiating those general goods. Helpful criticisms of both human beings and political communities must be directed towards the particular way in which they manifest the general good. For example, the human good requires some development of the mind, some form of seeking after truth, but the study of philosophy is not the only or even necessarily the best way in which this can be done. It is not helpful to criticize a stock broker because he is not a philosopher; however, it may be helpful to criticize a stock broker who cares only about making money and not about honesty or truth.

In a like manner, there are many different ways in which a political community can structure itself in order to provide its citizens with an opportunity for both ruling and being ruled in turn. The circumstances which lead a political community to be structured one way rather than another are often arbitrary, like the circumstances which lead a
person to be a stock broker rather than a philosopher, but it is not helpful to criticize a democracy for not being an aristocracy or vice versa. One may wish that one lived in France, but one cannot try to turn America into France and still be a patriot. To take an even more specific example, there are both advantages and disadvantages to a two party system like the one we have in America. A helpful criticism would take a look at those disadvantages and try to suggest ways in which they can be mitigated. However, creating a viable third party in this country would require a complete overhaul of our system of elections and representation. It would fundamentally alter the way in which people vote and the structure of our legislative bodies. There is nothing fundamentally unjust about a system a winner-take-all system just as there is nothing fundamentally wrong with being a philosopher rather than a stock broker, but advocating these kinds of fundamental changes is generally not a helpful form of criticism.

Thus, in response to the mantra that “dissent is patriotic,” I would argue that while it certainly can be, it is not always. Criticism of one’s country is patriotic when it is helpful and unpatriotic when it is destructive. The general principles that I have laid out above can help us to distinguish between these two different types of criticism. One of the most important reasons for encouraging a general feeling of patriotism among the citizenry is the fact that helpful criticism is desperately needed but not always obviously distinguishable from destructive criticism. Criticism cannot be helpful unless we trust the source that it is coming from. We have to trust that the critic not only has the requisite knowledge necessary in order to offer informed criticism, but we also have to trust that the critic is really trying to improve rather than destroy the object of his or her criticism. This is why I think we can say, as a general rule, that in-group criticism is more helpful
than out-group criticism. When criticism of the group comes from a member of the group in good standing, then it is easier to trust that the person is both knowledgeable and has the best interests of the group at heart. This trust is perfectly rational, first, because we gain knowledge of an object through our experience of it and, second, because a person is less likely to want to destroy a group of which they are a part. For example, we are much more likely to take to heart the exact same criticism of our behavior when it is offered by a family member than when it is offered by a stranger. Trust is essential to helpful criticism and a generally high level of patriotism in the citizenry can be very useful in building this sort of trust.\textsuperscript{338}

In the \textit{Nicomachean Ethics}, Aristotle declares that “friendship appears to be the bond of the state” or the glue that holds the state together. He goes on to say that “lawgivers seem to set more store by it than they do by justice, for to promote concord [\textit{homenia}], which seems akin to friendship, is their chief aim . . . And if men are friends, there is no need of justice between them; whereas merely to be just is not enough – a feeling of friendship is also necessary. Indeed the highest form of justice seems to have an element of friendly feeling in it.”\textsuperscript{339} This section has been dedicated to the discussion of what for the most part I have called the “effects of love or friendship” rather than the “duties of justice.” Friendship, as I understand it, is something that moves beyond the realm of justice. Justice generally involves an exchange of some sort, giving back to the

\textsuperscript{338}If I know that a person has displayed a willingness to help the political community in the past, that he or she has shown through words and deeds a dedication to the maintenance and improvement of his or her country, then it is easier to believe that the criticism they offer is sincere. If, on the other hand, I know that a person’s dedication to the political community is contingent upon it meeting some specific standard of goodness or upon its contributions to that person’s well being or the wellbeing of their group, then I will be much less likely to trust that person’s critiques.

\textsuperscript{339}Aristotle, \textit{Ethics}, 1155a23-32.
other in proportion to what you have received from them. Friendship, on the other hand, involves more than simply a proportional exchange. A true friend desires not only to maintain the friend but also to improve him or her. As Aquinas said, in friendship we move beyond the duties of justice and into the realm of “gratuitous favors.” This does not mean that one is allowed to treat one’s friend unjustly, to hurt or steal from one’s friend. Friendship does not eliminate the necessity for justice; the role of a friend simply extends further than the duties of justice. Moreover, when feelings of friendship exist between two parties, the duties of justice become easier and more pleasant to fulfill.

All citizens receive some benefits from the political community of which they are a part. As the Laws remind Socrates in the *Crito*, before we are even old enough to understand what our country is it has given us a great many benefits without which we could not hope to lead a happy and productive life. It has given us security, promoted a stable family atmosphere, and contributed to our basic education in justice. When we grow older, it teaches us to rule our own lives through being ruled and in other areas allows us the freedom to rule ourselves. One might say that a citizen has a duty in justice to repay, to the extent that he or she can, the benefits that the citizen has received from the political community. If the political community has provided security to the citizen, then perhaps it is the duty of the citizen to try to defend the political community when such defense is needed. But how can we quantify what we have been given and thus say what our duties are in return? How, moreover, can we be bound to repay that which we did not consent to receive?

Justice and the language of laws and rights are important, but are, perhaps, not the best language in which to speak of the relationship between a patriot and his or her
political community. Justice, as I understand it, exists for the most part in relationships that are already codified by laws. We can speak of a justice relationship between individual citizens and we can speak of a justice relationship between an individual citizen and his or her government. If I relieve my fellow citizen of his or her property, then I have an obligation in justice to repay them. If the government gives some benefit to its citizens, then it is unjust to for the government to deprive me of that benefit because of some irrelevant characteristic like race or gender. However, I am not sure that we can really speak of a justice relationship between an individual citizen and the political community as a whole of which he or she is a part, except analogously.  

In the *Crito*, the Laws seem to imply that because they have given Socrates life, they have the right to take it away from him. But does it really strike us as just for a political community to declare that, because it has provided the security necessary for a person to live and to live well, it has the right to take that life away? This does not appear to be a just exchange any more than it would be for a mother to take away the life of a child that she had given birth to. When it comes to laying down one’s life for one’s country, I do not think that this is something which we can speak of as a duty or an obligation in justice. Voluntarily sacrificing one’s life is almost always a “gratuitous favor,” in other words, an act of love, because there is no way that such a sacrifice can  

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340 Aristotle believes that there are different types of justice involved in different types of relationships including friendships of various sorts. “The objects and the personal relationships with which friendship is concerned appear, as we have said at the outset, to be the same as those which are found in the sphere of justice. For in every partnership we find mutual rights of some sort, and also friendly feeling . . . The claims of justice also differ in different relationships. The mutual rights of parents and children are not the same as those between brothers; the obligations of members of a comradeship are not the same as those of fellow-citizens; and similarly with the other forms of friendship. Injustice therefore is also differently constituted in each of these relationships: wrong is increasingly serious in proportion as it is done to a nearer friend” (*Ethics*, 1159b25 – 1160a5).
ever be repaid. The person who gives is no longer around to receive. Even activities that involve less of a sacrifice on the part of the patriot are difficult to speak about as fulfilling obligations or duties of justice. How is a citizen to repay an education in justice or an opportunity of ruling and being ruled in turn?

The most that, perhaps, can be said is that the citizen has an obligation to pass on what he has received, to “pay it forward,” if you will. The citizen cannot return what he or she has received but the citizen can attempt to ensure that future generations of citizens are able to enjoy what he or she has enjoyed. This means formulating policy with an eye not simply to the needs of the current generation but also to the potential needs of future generations. We could, perhaps, understand ourselves in this way to be under an obligation not to saddle our children with mountains of public debt or a polluted environment. One might argue that this sort of idea is analogous to an obligation in justice because we, in a way, attempt to repay what we have received from previous generations by providing the same sort of thing to future generations. The political community thus becomes a relationship that extends through time as well as through space, which expands vertically as well as horizontally. I have suggested that the activities of the patriot should primarily be understood not in the language of justice but in the language of friendship. On the other hand, if the political community encompasses both past and future citizens as well as the citizens of the present, then giving to future generations what has been given to us can be understood as repaying the political community in proportion to what we have received from it. Thus, a justice relationship of a sort can be said to exist. Even so, the idea of giving better than what we have
received, of providing a better future for our children, is something which, like all acts of
love, extends beyond the realm of justice.
CHAPTER 7: PATRIOTIC FRIENDSHIP: FOUNDATIONS AND LIMITS

7.1 Fundamental Principles of the Good

The argument for patriotism as friendship which I have presented has been based upon two basic principles or claims which, although often repeated, have not been explicitly named. These two principles I will call (1) the principle of anti-utopianism and (2) the principle of the multiplicity of particular goods. These two claims are related in that they both stem from the Aristotelian principle that the good of a person or object can only be properly understood in terms of its functionality or end. This is a principle over which much ink has been spilt by philosophers in the intervening years since Aristotle first made the claim. I do not intend to argue in detail for this principle here other than to say that I am not sure that it would be possible to make an argument for patriotism as a positive virtue without understanding the good in this way. As Aquinas maintains, friendship can only be a virtue in so far as its object is good and thus patriotism can only be a virtue in so far as the political community is good. Moreover, I am not sure that it is possible to see the political community as a good other than in so far as it fulfills some role in human life. Thus my argument is predicated upon this notion of the good, and more specifically, the notion that ruling and being ruled in turn is in some way essential to the human good. It is not, however, predicated upon the idea that human beings have
some sort of ultimate supernatural end in addition to a natural end, as Aquinas would argue.

The first principle, the principle of anti-utopianism, can briefly be described as the claim that while all objects have an end or good, no object, be it a person, group of persons, institution, or anything else, can completely and efficiently fulfill that end and therefore no object can be regarded as perfect. 341 No human being can live a life completely free of mistakes and failings; no human being can live a life that is completely happy. In addition, no political community will provide all of its citizens with the proper balance of ruling and being ruled all of the time. No institution can be

341 The understanding of perfection which I am utilizing here may be said to be a distinctively modern understanding. When I say that “no object can be regarded as perfect” I mean that no object can ever be free of failure. All human beings fail at times to act well, to do justice, or to live up to the standards of morality. In a like manner, all political communities at times fail to fulfill their end, to provide their citizens with security and basic material goods, to uphold their standards of justice, to provide a genuine opportunity to all of their citizens to both rule and be ruled in turn. For medievals such as Aquinas, however, the standard of perfection does not necessarily mean “free from all failure.” On the question of whether or not perfection is possible in this life, Aquinas says the following:

Now perfection implies a certain universality because according to Phys. iii, 6, "the perfect is that which lacks nothing.” Hence we may consider a threefold perfection. One is absolute, and answers to a totality not only on the part of the lover, but also on the part of the object loved, so that God be loved as much as He is lovable. Such perfection as this is not possible to any creature, but is competent to God alone, in Whom good is wholly and essentially. Another perfection answers to an absolute totality on the part of the lover, so that the affective faculty always actually tends to God as much as it possibly can; and such perfection as this is not possible so long as we are on the way, but we shall have it in heaven. The third perfection answers to a totality neither on the part of the object served, nor on the part of the lover as regards his always actually tending to God, but on the part of the lover as regards the removal of obstacles to the movement of love towards God, in which sense Augustine says that ‘carnal desire is the bane of charity; to have no carnal desires is the perfection of charity.’ Such perfection as this can be had in this life, and in two ways. First, by the removal from man's affections of all that is contrary to charity, such as mortal sin; and there can be no charity apart from this perfection, wherefore it is necessary for salvation. Secondly, by the removal from man's affections not only of whatever is contrary to charity, but also of whatever hinders the mind's affections from tending wholly to God. Charity is possible apart from this perfection, for instance in those who are beginners and in those who are proficient (ST 2-2 Q184 A2 Corp).

Thus, Aquinas believes that a type of perfection is possible for human beings in this world and that perfection is consistent with a person who fails in some ways, i.e. continues to commit venial sins. The understanding of perfection in human things as complete freedom from failure, the understanding which gives rise to utopianism of all varieties, is alien to Aquinas’ philosophy.
organized so that it distributes material goods in a perfectly efficient manner. This may seem like an obvious and fairly uncontroversial claim, but when we are dealing with political communities it is important to make this point clear. Utopianism of many varieties often plagues politics, communism being only the most obvious example. There is a corollary to this principle, however, which may be more controversial. Although no object performs its end perfectly, it certainly must be true that some objects perform their appointed end better than others and thus come closer to the good. On the other hand (and this is the controversial corollary I am speaking of), judgments about which objects fulfill their end better are often very difficult for us as human beings to make. The more complex the end of the object involved and the greater the level of generality at which we consider that end, the more difficult these judgments are to make. It may be fairly easy for us to determine if a clock or a shoe fulfills its end, but it is much more difficult for us to determine if and to what extent a person or a political community fulfills its end. The reason for this comes from the second of the two principles outlined above, the principle of the multiplicity of particular goods.

The principle of the multiplicity of particular goods maintains that while all objects of a type can be described as having a common general good, there are many different particular ways of manifesting that good which at a certain level of specificity become incommensurable. For example, we can describe happiness as the general end of human life, we may also be able to describe in general what sorts of things are necessary for human happiness (food, shelter, health, companionship, development of the mind, an ordered aesthetic), but there are a myriad of different ways in which these goods can be instantiated in human life. We can say that there is a minimum of food, shelter, and
health necessary for the survival of the human body, but this is not the same thing as saying what amount or type of these goods is necessary for human happiness. This amount will vary a great deal based upon circumstances such as resources and expectations. It is possible to be happy with very little, but how much exactly that is, is impossible to say. The same can be said of companionship and development of the human mind.

It may have at one time been possible for human beings to live fulfilled and happy lives, both ruling and being ruled in turn, without formal participation in government through elections. Given the expectations of our contemporary world, however, we are entering a time where that increasingly ceases to be the case. In addition, there are many different ways in which human beings can find companionship and develop their minds. Some get married and have families, others join religious communities, and others only have close friendships or clubs. Some people choose to spend their lives studying philosophy, others develop their minds through the challenges of their jobs which can be anything from being a stock broker to designing cars, and others develop their minds through learning and reading in their spare time. We cannot legitimately compare the life of a waitress to that of an engineer and say in the abstract which one is happier. Some waitresses are happy and some engineers are not. We cannot say that having one job is necessarily a better way to fulfill the human end than having another. In the same way, we may be able to say that physical exercise and entertainment are an essential part of human happiness, but we cannot, in the abstract, argue for the superiority of playing baseball over basketball. The human good has several components and those components have infinitely more ways in which they can be made manifest.
This is the reason why it is so difficult for us to say, on the whole, who is a better human being. The same can be said of political communities. The end of a political community has several components, i.e. security, justice, ruling and being ruled. We can say that the first two are instrumental to achieving the third, but they nonetheless must be provided for. Sometimes it may be necessary to decrease our ability to serve one of these ends in order to increase our ability to serve others. Moreover, there are a myriad of different institutional structures, traditions and practices that can be instituted in order to serve the end of a political community. I would suggest, perhaps most controversially, that one cannot say in the abstract that a democracy is better suited to fulfilling this end than an aristocracy, just as one cannot say that being a philosopher is a better way to achieve happiness than being a waitress or an engineer. Moreover, within each general type of governmental structure there are a variety of different practices which can be instituted. A democracy can be a presidential or a parliamentary system or it can have proportional representation or single member districts. An aristocracy on the other hand can be hereditary or appointed; it can include a monarch or not. Again it is impossible to say in the abstract which of these systems is better. They all have their advantages and disadvantages.

It is by no means my position, however, that judgments of good and evil, of better and worse, are impossible to make in any circumstances. Let me draw attention at this point to the type of judgments that we are capable of making. First of all, there are the judgments at the extremes. It is often possible to tell when an object, even a fairly complex one, does not function at all or functions extremely badly. There are few people in this world who are genuinely evil, but one does on occasion encounter them, mass
murders, for example. There are also people who even if they do not make it a practice of hurting other people are so self-centered or self-loathing as to make it impossible for them to function and to be even moderately happy. Such people do exist even though we should be careful about being too quick to assume that this is the case.

The same can be true of other complex objects like political communities. Some of the entities that we recognize as states cannot genuinely be called political communities because they do not come close to fulfilling the end that political communities are supposed to fulfill. They are either so inept that they cannot provide basic security to their own people or they are obviously only interested in the maintaining the ruler and his friends in power and wealth. If a state does not consider the wellbeing of the people as a whole or is so obviously oppressive that it provides virtually no opportunity for its people to rule their own lives, then we cannot consider that state to be a political community at all. Examples of such states might be the Soviet Union at the height of the Cold War, or Columbia in the eighties and nineties, or North Korea today. These kinds of judgments at the extremes are relatively easy to make, because the bar is set fairly low. We can say in general that a person or a political community is, on the whole, good if it meets this fairly low level of functionality.

However, most of the people and the political communities that we will encounter in our lives exist not at the extremes but in the vast area in between. The standard of basic functionality described above is not very helpful when it comes to making fine distinctions about better and worse objects or, as is essential for our purposes, deciding how best to act so as to improve and object. When it comes to the finer distinctions, the question “is X good for Y?” is much more useful than the question “is X good?” A house
is a good house on the whole if it keeps the elements and the animals out and keeps us warm at night. However, the question of whether or not this house is good for me is a much more specific question, and the answer is much more helpful as a guide to action. Is the house closer to my workplace? Does it have enough room for my family? Is it aesthetically pleasing to me? These questions can help me to determine which house to buy or how to improve the house that I already have. In this sense, one house can be better for me than another.

The same basic principles can be applied to judging persons and groups of persons like political communities. The issue here is one of roles and the specific activities and requirements associated with a specific role. If John is a stock broker and Jane is a waitress, it is possible for them both to be good people according to the minimal standards of functionality I have described above. The question of which is a better person is not really a question that we are equipped to answer. An easier question to answer would be “is John a good employee or a good father?” In other words, “does John function well as an employee or perform his role as a father well?” An even easier question to answer would be “is this particular action on the part of John the action of a good father or a good employee?” The answer to the first set of questions would involve a rather intimate knowledge of John, but a knowledge that it is presumably possible for another person to have. The answer to the second set of questions requires some knowledge of John’s circumstances, but not as much as the first set of questions. These questions, which focus on particular roles and particular actions of a specific individual, are the type of questions that it is possible for us to give legitimate (although not always entirely accurate) answers to.
It happens that the types of questions that we are best equipped to answer are also precisely the types of questions that are useful and necessary to a friend. A friend wants to help us to improve, in particular in the area of the affinity that we share. And, if we recall, the affinities that friends share are affinities of actualizing a particular form or role (idem in actu). A friend needs to be able to evaluate us in terms of that particular functionality and give advice about how we can improve or lend material assistance in whatever way they can. Comparisons between persons are the purview of the critic, not of the friend. A patriot, likewise, needs to be able to judge his fellow citizens in terms of the requirements of citizenship and the political community as a whole in terms of its end. We are capable of making these judgments when the criteria for citizenship and the ends of a political community are spelled out fairly specifically, as they are within a particular political community. We are able to do this first of all because we can have a fairly intimate knowledge of the circumstances in which our political community and our fellow citizens act and because we have a particularized understanding of the end which we are trying to achieve. As I have said, the question of whether or not a system of proportional representation is superior to single-member districts is impossible to answer in the abstract. The questions that perhaps we can answer are whether or not single-member districts are good for us given our particular characteristics and given the current circumstances in which we live. It is perhaps even easier to confront the issue in another way and say: “given the fact that we have single-member districts how can we act so that their disadvantages are somewhat ameliorated?” Thus, the question of whether France is a better country than America is not a question that can really be answered with any
degree of certitude. Fortunately, it is a question that does not really require an answer and is of little concern to the person who would be a friend to either country.

Given these two basic principles of the good as I have outlined them above, it is possible at this point to make clear the precise nature of the relationship between friendship (and thus, patriotism) and the good and in so doing to offer an explanation for the necessity, purpose and scope of patriotism. We can conclude, given what has come before, that friendship involves a basic, and for the most part unquestioned, belief in the worthiness of one’s friend. When I say worthiness here, I do not mean only the belief that one’s friend, like all other human beings, has an unquestioned right to exist. We can and do possess this belief about many people who are not our friends nor whom we would regard as good people. What I mean by worthiness, is the belief that the person in question meets the basic standard of minimum functionality that describes someone who is on the whole a good person. We do not arrive at this conclusion based upon a conscious choice or a detached weighing up of their bad and good qualities. But, at the same time, this position is not irrational because it must be based upon some observation or experience of functionality in some area of the person’s life.

The particular type of functionality that interests us will be based on some affinity that we share with the person and thus will be, to a certain extent, arbitrary. The circumstances which lead us to meet this particular person and perceive some affinity and allow us the opportunity to form a fellowship with that person will also be arbitrary. However, as we have said, there is no possibility of a loving an object except under some aspect of the good. Moreover, this arbitrariness serves a very important function. It allows for the possibility that every person in all of their uniqueness will be able to have
friends, people who care about and actively promote their well-being and improvement, even though no person is perfect.

Patriotism, as a type of friendship, operates in a similar manner. Patriotism rests upon a basic and, for the most part, unquestioned belief in the worthiness of one’s country. This means that we believe that our country meets a basic level of functionality, that it is basically good and worthy of our efforts to make it better. This belief is based upon some sense of affinity that we share with our country, some experience of it as functioning well. Given the basic principles of our argument, this does not mean that we experience the political community functioning perfectly (because nothing can) and it also means that our experience of its functionality will be highly particularized. As children we may experience our country primarily through celebrations, as we grow older we have interactions with officials and various laws. Because the political community is not an object which we experience directly but only through its various representations, we have to be brought to understand ourselves as part of a particular political community and to recognize the way it functions in our day to day life by means of a narrative. Much of what our country provides for us forms the background of our lives and we have to be taught not to take these things for granted. We have to be taught to regard ourselves as part of a group of human beings, extended through both time and space, dedicated to a common political end. Before the political community can become an object of our affection we have to see it as an object, as a whole which is capable of being loved.
7.2 Patriotic Narrative

I have mentioned before in passing the importance of having a narrative of one’s political community, but have waited until now to tackle the details of this most important and controversial aspect of patriotism. The necessity of a narrative of some sort for the existence of patriotism is perhaps a fairly obvious claim, but a great deal of controversy surrounds the construction of such a narrative and the question of what basis that narrative has in reality. Critics of patriotism draw attention to the way in which patriotic narratives are often hagiographies, glossing over or ignoring the more unsavory details of a country’s past. The fact that these narratives have to be actively constructed and maintained seems to indicate that they are in some way false or illegitimate. One might ask: if the political community can only be recognized and loved through narratives and symbols, does it really have any existence outside of people’s heads?

Overall, I would suggest that both a proper patriotic narrative and our understanding of it have to be informed by the two basic principles of the good discussed above. Only with these two principles in mind can the patriotic narrative serve its purpose yet still remain true.

To begin with, I would suggest that as human beings we are narrative creatures. We live our lives through time, constantly marking its passage and the changes which that passage creates. Things come into being and go out of being; we grow and change in both physical and mental characteristics; the circumstances of our lives alter. Yet, we regard the self as something that persists through time. The “I” who sat at this computer and wrote yesterday is the same “I” who sits here writing today. An essential part of what connects me today and yesterday is my memory, and the narrative that I have
constructed of myself based on that memory. As human beings we constantly construct narratives of our own lives, of other people’s lives and of the ways in which we are connected to one another. These narratives are how we understand our place in the world, our roles and our obligations.\footnote{\textcopyright 342 The account offered here of the narrative quality of human life draws upon Alasdair MacIntyre’s discussion of narrative in Chapter 15 of his book \textit{After Virtue}, 2nd ed. (Notre Dame, IN: University of Notre Dame Press, 1984). Here MacIntyre maintains that “Narrative is not the work of poets, dramatists and novelists reflecting upon events which had no narrative order before one was imposed by the singer or the writer; narrative form is neither disguise nor decoration” (211). He goes on to argue that “man is in his actions and practice, as well as in his fictions, essentially a story-telling animal. He is not essentially, but becomes through history, a teller of stories that aspire to truth. But the key question for men is not about their own authorship; I can only answer the question ‘What am I to do?’ if I can answer the prior question ‘Of what story or stories do I find myself a part? We enter human society, that is, with one or more imputed characters – roles into which we have been drafted – and we have to learn what they are in order to be able to understand how others respond to us and how our responses to them are apt to be construed” (216).}

To construct a narrative is to tell a story about how events over time relate to one another. A narrative will not record all events that happen at a particular time but will be limited by a certain perspective and a certain end. We do this sort of thing without thinking about it all the time. When someone asks us to recount our evening, we will not discuss everything we did in painstaking detail, rather we will edit out the parts that are not interesting or relevant to the main event of the night and add in those events which we did not consider at the time to be important, but now realize that they are. We will not include only our own activities nor will we include the activities of everyone we encountered last night, but only those which are relevant to the main event or whose interaction with us was important to it. When a person looks back on their life in order to write a memoir, they will not include all the events of their life, but only the ones which in retrospect they believe to have been extremely influential in their development as a person.
Constructing narratives requires prioritizing events and persons and privileging a certain perspective. These aspects of narrative construction are essential and thus bring a certain amount of what one might call “subjectivity” into narrative construction. In other words, there is no such thing as a definitive narrative of a certain set of events or one which is true to the exclusion of all others. There is no such thing, as a definitive narrative of America. However, this does not mean that there are not better and worse narratives, legitimate ones and illegitimate ones, mythological ones and non-mythological ones. To take the most obvious example, it is perfectly acceptable to construct a narrative of events which never happened in the real world as long as it does not purport to be something other than what it is. The purpose and the type of the narrative dictate how to prioritize events and privilege perspectives in a rationally justifiable manner. When writing a memoir it is not legitimate to include events that never happened and to pretend that they did happen. This same rule applies to patriotic narratives. The end of both types of narratives is to tell the story of who someone is and how they got that way and thus to include events that never happened to the person in question is to attempt to give a false picture of that person’s identity.

In his book *Achieving Our Country*, the philosopher Richard Rorty argues that there is no such thing as “a nonmythological, nonideological way of telling a country’s story.” Rorty contends that “objectivity” is not something that it is possible to achieve when constructing either a narrative of our common political life or a narrative of our individual lives. I would suggest that if “objectivity” means a detached and disinterested

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accounting of the events of our lives, then Rorty is certainly correct. However, there is still an important distinction to be made between mythological and nonmythological national narratives. To use an obvious example, Rome had a mythological founding narrative and America, I would argue, does not. The story of Rome’s founding is entirely constructed based on events which never took place and people who probably never lived (or if they did we know nothing about their lives). The mythical founders of Rome are not human beings but gods; they are characters in a story like Romeo and Juliet. The founders of America, on the other hand, are not gods, but men. We know about their failings and their mistakes. We know about and are forced to confront the less than perfect justice which characterizes the political institutions that they created. The facts of how these men actually lived their lives and the founding documents that they produced exercise an important control on our collective self understanding. The failings of Thomas Jefferson and George Washington, recorded as they are for posterity, force us to resist the ever-present temptation to turn them into gods as the Romans did to Aeneas and Romulus. Having a nonmythological founding narrative helps to keep our expectations and our ambitions in check and to reduce the very real dangers associated with patriotism and nationalism.344

When it comes to the question of what events that did happen to include in the narrative -the question of prioritization - the rules are much less obvious and much less firm. There are some general guidelines, however. The events that are included and the significance of those events will depend upon whose story you are trying to tell. The

344 As MacIntyre says “The difference between imaginary characters and real ones is not in the narrative form of what they do; it is in the degree of authorship of that form and of their own deeds” (After Virtue, 215).
play *Hamlet* is the story of what happens to Hamlet, Prince of Denmark, not to Rosencrantz and Guildenstern. Hamlet’s perspective is privileged and you cannot suggest that it is somehow illegitimate or untrue to leave the fate of Rosencrantz and Guildenstern ignored. You cannot argue with Hamlet’s right to be the hero of his own play. In a like manner, a patriotic narrative should be about the political community in question. The political community is a group of people dedicated to a common understanding of the political end. The story that is being told is the story of a particular political community, how it came to be and how its self-understanding of its end has developed over the intervening years. It is the story of people’s lives, but not their entire lives, their lives as citizens.

The events that are important are those things which happen to the political community as a whole, those things which have made it into what it is and continue to influence its development. There are many different subgroups within any political community which have stories of their own, but the narrative of the political community is not identical with the narrative of any one of these groups nor is it simply an aggregation of these narratives. The narrative of the political community is a narrative of what we all share, and if there is nothing that we all share then we do not have a political community. The narrative of a political community is a narrative about politics, about how we govern ourselves and how we choose to act as a whole in history. It is not a narrative about a shared language or a shared religion or a shared culture except in so far as those things may influence how we structure our political community.

Of course, there will always be people within every political community who for some reason or another do not feel themselves to be a part of that political community.
Simply by living in within the boundaries of a political community and being subject to its laws and collective actions, every person is to some extent a part of that political community. But if they do not regard those laws as binding on them or the government as a representative of a collective whole of which they are a part, then they will regard themselves as separated from the political community in some important way. When confronted with these sorts of people, especially in great numbers, we must regard their sense of isolation as a failing on the part of the political community. Our narrative should attempt to understand the development of this isolation, and incorporate that into the overall self-understanding of the political community. A narrative of America, which ignores slavery or the struggle for women’s rights, cannot be a complete narrative.

All political communities have failings, and these are often manifested by a failure to incorporate all its members into the whole or to persuade them that they are in fact part of it. Moreover, whenever the political community acts as a whole there will be some people who fundamentally disagree with that action. The larger and more important this action is, the more widely felt its influence, the more likely it will be that a large percentage of the population will be opposed to it. As long as it is undertaken by a government still regarded as the legitimate representative of the people, however, it can still be regarded as an action of the whole. These disagreements and internal struggles are an important part of the narrative of any political community because they force us to clarify our common ends and develop our self-understanding. A narrative of America that disregards the abolition movement or the opposition to the Vietnam War would also be a false narrative of America.
Thus, a legitimate narrative of a political community will take into account the major activities of its representatives, particularly the government. It will tell the story of developments in law and policy that represent changing understandings of how the political community can best achieve its end. However, it cannot ignore the failings of a political community, when it ignores or mistreats some of its members, when it fails to fully incorporate them into the political community itself. It also cannot ignore important actions on the part of the government that we now consider to be morally wrong. In other words, a narrative which ignores any highly influential event in the development of a country, whatever its moral complexon, is an untrue narrative. We cannot understand America’s identity today if we ignore our legacy of racial or sexual discrimination. To the extent that we failed to make all our citizens understand themselves as part of the political community and regard the actions of the government as legitimate representations of the political community as a whole, then we failed to live up to our own particular understanding of the political end. Patriotic narratives cannot and should not be hagiographies.\textsuperscript{345} No political community is perfect and it is a very dangerous mistake to regard any community as such. When we begin to see ourselves as characterized by perfection the patriot no longer has any need to act and we can become characterized by complacency.

\textsuperscript{345}There may be an important distinction to be made between the details of a narrative that is appropriate for children and one that is appropriate for adults. The principle of anti-utopianism is often one that it is very difficult for children to grasp. They tend to view the world as black and white and any major sin as an indication that someone is not a good person. When parents tell young children about their past or the history of the family they will often expurgate some of the morally problematic aspects of that history. This is generally considered a very acceptable thing to do in order to facilitate the child's moral education and help to attach him or her to the family. As the child grows up, however, they will develop a more nuanced understanding of morality and should be put into possession of more of the facts. In a like manner, we may consider it appropriate to present a fairly expurgated version of our political narrative to children when they are young, provided that they are not allowed to continue to understand their country in simplistic terms after they become adults.
A narrative which ignores a political community’s failings is a false narrative, but so is one which ignores its attempts to address those failings and the progress that it makes in this regard. A narrative that claims that racism is as prevalent now as it was in the 1860’s is just as false as one which denies that Americans were ever racist. Our political community has taken great steps in incorporating African-Americans fully into our political community, and though it is possible that we will never eliminate racism entirely from the minds of our citizens, we have made significant progress in this regard. These general principles can help somewhat in deciding which events should be included in the narrative of a political community and which events should not, but it certainly cannot give definitive answers to these questions in all circumstances. We might be able to say with certainty that a narrative of America that leaves out a discussion of slavery in colonial America was certainly a false one, but what about one that leaves out a discussion of Thomas Jefferson and Sally Hemmings? We cannot draw hard and fast rules which define specifically what should be included in the narrative of our political community. Our narrative reveals our collective self-understanding and this self-understanding will, of course, change over time. Moreover, the narrative not only reveals our self-understanding, it also creates and shapes it. There will always be a continual struggle over what to include in the narrative of our collective political life and this struggle helps us to define who we are.346

346 It is certainly true that not all citizens will hold the same opinions about what exactly constitutes a failure on the part of their particular country. For example, citizens today are still divided over whether to view the Vietnam War as a fundamentally unjust war or simply as a war which was inefficiently and often unjustly prosecuted. Public debate over these sorts of issues is part of what helps us to form our collective self-understanding. It is possible that we will never come to have a general agreement on this subject. However, I would suggest that we are not yet far enough removed from the event to know for sure. Almost 150 years after the start of the Civil War, we have now come to a general consensus about that war and the institution of slavery which precipitated it, a consensus which did not
Thus, we can conclude that a patriotic narrative must exclude neither our mistakes nor our accomplishments. However, a narrative is more than just a series of events strung together. There has to be some evaluation of those events, some understanding of how they shaped the object in question. In literature, narratives are, for the most part, either comedies or tragedies. *Hamlet* and *King Lear* end in death, whereas *Much Ado About Nothing* and *Twelfth Night* end in marriage, therefore the former are considered tragedies and the latter are comedies. The author constructs the characters out of whole cloth; he controls their actions, knows their minds, and decides where to end the narrative. When it comes to telling the narrative of true human lives, however, the question of tragedy vs. comedy becomes much more difficult to decide. *Henry V* ends with victory of Henry over the French and his marriage to Princess Katherine and so it would seem to be a comedy. However, as the Chorus reminds us at the end of the play Henry died not very long after the events recounted and all of his gains in France were quickly lost.\(^{347}\) On the other hand, his wife Princess Katherine went on to found the

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\(^{347}\) Thus far, with rough and all-unable pen,
Our bending author hath pursued the story,
In little room confining mighty men,
Mangling by starts the full course of their glory.
Small time, but in that small most greatly lived
This star of England: Fortune made his sword;
By which the world's best garden he achieved,
And of it left his son imperial lord.
Henry the Sixth, in infant bands crown'd King
Of France and England, did this king succeed;
Whose state so many had the managing,
That they lost France and made his England bleed:
Which oft our stage hath shown; and, for their sake,
In your fair minds let this acceptance take.  
*Henry V*, Act V, Scene II
Tudor dynasty, perhaps the most important and influential ruling family in British history. How are we to evaluate real human lives in terms of tragedy and comedy? All human beings die, just as all political communities eventually cease to exist. This is the reality of the human condition, but it does not make all of our narratives into tragedies. It is not a tragedy for human beings to fail to do what we are fundamentally incapable of doing.

When we construct narratives of genuine human lives, we have to keep in mind the principle of anti-utopianism. Perfection is beyond us, either as individuals or as a political community, and thus every genuine narrative will contain some mistakes and some achievements. The judgment of whether or not most human lives are tragedies or comedies is one which is, for the most part, beyond us. We cannot know if other people have achieved happiness or at least enough happiness to be regarded as having had a happy life. We cannot know if in the end they found peace or salvation. With regard to political communities the judgment is essentially impossible. Can we know in the end that the story of Rome is a comedy or a tragedy? What would it even mean to ask this sort of question? Rome had moments of great achievement and moments of great horror, but can we weigh those up against one another? Did it help more people than it harmed? Would it be better if it had never existed? We simply cannot answer these questions, and what would be the point of answering them now that Rome is gone. When it comes to our own political community, we are stuck in media res. The story of America is still going on, and who can say what the future will bring? We know only that it will bring some good and some evil.
What, then, is the narrative perspective that we ought to adopt when constructing a narrative of our own political community? I would suggest that it is the perspective of the autobiographer. The autobiographer looks back on his or her life up until now and tries to describe their current self-understanding and how they have achieved it. The good autobiographer does not tell a story that is a simple comedy or tragedy. Instead, he or she tries to give a true explication of his or her identity. The autobiographer’s life is not over and he or she is not trying to give an overall moral assessment. There will usually be an underlying moral judgment which represents the author’s basic sense of self-esteem. If the autobiographer is not given over to total despair, if he or she has any hope of improving, then the autobiographer must have a sense that he or she is basically a good person and capable of being improved. This underlying evaluation will inform the story that is being told. This is an important difference between a biographer and an autobiographer. If a person is capable of functioning at all, then he or she must be committed to a sense of his or her own basic goodness and ability to improve. This is what we generally call self-esteem. On the other hand, this is clearly not a position that a biographer must take about his or her subject.

In *Achieving Our Country*, Rorty quite perceptively compares patriotism to national self-esteem or self-respect. Rorty’s thesis is quite simple:

National pride is to countries what self-respect is to individuals: a necessary condition for self-improvement. Too much national pride can produce bellicosity and imperialism, just as excessive self-respect can produce arrogance. But just as too little self-respect makes it difficult for a person to display moral courage, so insufficient national pride makes energetic and effective debate about national policy unlikely. Emotional involvement with one’s country – feelings of intense shame or of glowing pride aroused by various parts of its history, and by various present-day national policies – is necessary if political deliberation is to
be imaginative and productive. Such deliberation will probably not occur unless pride outweighs shame.348

Rorty here refers to “national pride,” but I believe that “national self-esteem” is a better term. National pride is a feeling of joy at the accomplishments of one’s country and, therefore, like all emotions is a short-lived response to external stimuli. Self-esteem, on the other hand, is a disposition to regard ourselves as basically good human beings capable of improvement. Rorty is quite correct, however, to point out that this sense of basic worthiness is essential to any kind of improvement either for an individual or a political community. In order to actively work to make ourselves better we have to believe that we are not lost causes, that we are capable of and worthy of improving. Lack of self-esteem, of what we might call a state of self-loathing, is paralyzing for both individuals and political communities.

In order for patriotism to be possible, in order for citizens to have a sense of affinity for their country and work towards its improvement, we have to have a narrative which instills a basic sense of national self-esteem in citizens. This does not mean that a patriotic political narrative should ignore our common failings, any more than self-esteem in an individual requires ignoring their mistakes. Pretensions to perfection are not the road to self-improvement. What this means is that a patriotic narrative has to embrace the principle of anti-utopianism. It has to regard our political community as flawed, as all political communities are, but it has to regard it as still being able to achieve a basic level of functionality. Our various and manifest failures do not eliminate the fact that we have done good on certain occasions and in certain places and that we can do good again in the

348 Rorty, Achieving Our Country, 3.
future. As we have said, the goodness of actions is much easier to evaluate than the
goodness of persons (or groups of persons). An evil action cannot negate the existence of
a good action by the same person. We instinctively adopt this perspective when
evaluating our own individual lives, and it is my contention that we should also adopt it
when evaluating our common political life.

Thus, patriotism requires a story of America as something other than a stage on
which relationships of domination and repression play themselves out in an endless cycle.
When faced with such a narrative, a citizen has only two options: to dissociate him or
herself from America’s crimes by rejecting a national identity all together or to wallow in
shame and self-loathing. Neither of these options allows for the possibility of working to
improve America, to make it more just, to incorporate more individuals into active
participation in the political community. We need to believe that America is basically
good and capable of improvement in order to make it rational to work for that
improvement.

Clearly such a narrative is necessary in order for patriotism to exist, but, we may
still ask ourselves, is such a narrative true? For Rorty, such a question is not really
relevant. The patriotic narrative is true in the only way that things can be true, in that it is
useful. I do not mean to suggest that Rorty is correct to say that the only standard of
truth is that of usefulness, but this kind of analysis is somewhat helpful when it comes to
things like individual and national self-esteem. As I have argued above, accurate
judgments about persons and groups of persons as whole are very difficult to make
except at the extremes. There are some obviously non-functioning persons and some
obviously non-functioning political communities, but these are the exceptions rather than
the rule. Most people and most groups exhibit a basic level of functionality and thus may be called good or decent on the whole. We try to encourage self-esteem in people because we recognize that they cannot improve without it, but also because it is our default position to assume that a feeling of basic self-esteem is justified on the part of most people. If we believe that all human beings have an inherent dignity as persons, then even those who are deeply flawed should be encouraged to believe themselves capable of improving. This may not be a judgment which is always objectively true, but our default position is to adopt this judgment, especially with regard to ourselves, because we understand both that it is true for the most part and that we cannot function without it.

When it comes to political communities or any other groups we do not have to give them precisely the same benefit of the doubt because we do not regard them as possessing the same inherent dignity as individual human beings. However, like individuals, groups can never be perfect, but they can achieve a basic level of functionality. For groups this means that in order to be considered to be basically good they have to be dedicated to an end that is good and be organized such that they are minimally capable of pursuing that end. Through participating in or observing a group we can determine whether it is capable of functioning in pursuit of its end. There will be a moment in the existence of all groups when they cease to be able to function in pursuit of their end either because they lack the resources or because they lack the collective will to do so. This moment is not always easy to recognize, although, I would argue that active participation in the group will make such a judgment easier. Until the group has reached this moment, however, it is still capable of improvement and its members are still
justified in their collective self-esteem. Most of the groups that we encounter in our life times are still actively functioning and have not yet reached this moment. When the moment is reached, however, the only choices open to us are either to withdraw from the group and seek our ends through different means or to disband what remains of the group and start afresh.

Political communities, like all other groups, have a basic minimum level of functionality. In order to function there must be a general shared understanding of the end, the material resources necessary to pursue that end, and internal structures which facilitate that pursuit. With a group as complex as a political community it is not always easy to identify the moment at which it ceases to function, but this moment has been reached in every previously existing political community and will be reached by ours. Some political communities fall apart through lack of material resources (food or arms, for example), while others are destroyed by internal dissension. As long as a political community is basically able to feed its people, provide them with security, and allow them to both rule and be ruled in their lives then it is functioning at a basic level and the national self-esteem of its members is justified. This is not true of all currently existing states (consider, for example, North Korea or the Sudan), but it is certainly true of America, at least at the moment. A narrative of America which sees only struggles for power and the exploitation of the weak is not a useful narrative, but it is also not a true one. It does not acknowledge the goods which America does provide to its people, including basic security, a relatively high standard of living, a society governed by the rule of law and most importantly, the opportunity to direct their own lives. It does not provide complete freedom to all of its people, nor does it provide complete equality. Yet,
perfect equality and freedom are neither possible nor desirable within a functioning political community. The point is that America achieves a basic level of functionality and as such, a feeling of national self-esteem is justified. A narrative of the American political community which contains an underlying evaluation of basic worthiness is therefore both useful and true.

Thus, a patriotic political narrative should be characterized by a commitment to national self-esteem. In other words, the narrative should not attempt to whitewash a country’s past and ignore its failings, but these failings should be portrayed as the mistakes of a community that is basically good and capable of being improved. Our default position with regard to our country should be the same as our default position with regard to most people, i.e. that they are flawed entities but not irredeemably corrupted. To use a Christian analogy, human beings, and, thus, groups of human beings, are characterized by original sin. They cannot, therefore, achieve perfection in this life, but they can do the good in particular places and at particular times. A person who is in the habit of doing good in this way can be understood as virtuous. A Christian’s interactions with other people and groups of people should be characterized by an understanding of the flawed nature of human life and a tendency towards forgiveness. The difference between a patriotic narrative of national self-esteem and a narrative of national corruption can be compared to the difference between a Catholic and a Calvinist worldview. A Calvinist looks at the world and at himself and sees only corruption and sin. All that he can do is pray for a salvation that he does not deserve, because nothing that he does in this world can be good. A Catholic on the other hand, sees a world that is flawed, one where there will always be suffering and sin, but also one where it is still
possible (with God’s grace) to do good works. The existence of sin in the world is obvious to both the Calvinist and the Catholic, as it is to both the patriot and the anti-patriot, but the way that one chooses to interpret these observations cannot really be proven and is somewhat a matter of faith.  

Finally, it is important to make clear that the principle of anti-utopianism dictates that an effective patriotic narrative must avoid whitewashing both the past and the future. As we have argued above, whitewashing a country’s past mistakes and crimes does not help it to improve itself. But it is very important to point out that a patriotic narrative should not hold out the possibility that the political community may achieve perfection at some point in the future. In *Achieving Our Country*, Rorty bemoans the loss of patriotism and hope for political reform among members of what he calls the “cultural left.” He distinguishes this New Left from the Old Left or the progressives of the late nineteenth and early twentieth century. The Old Left, characterized by the writings of John Dewey and Walt Whitman, viewed the United States as an opportunity to see ultimate significance in a finite, human historical project, rather than in something eternal and nonhuman. They wanted to put hope for a casteless and classless America in the place traditionally occupied by knowledge of the will of God.  

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349 When I use the term “faith” here, I am using it in the way that Aquinas does. He says the following regarding faith: “Faith implies assent of the intellect to that which is believed. Now the intellect assents to a thing in two ways. First, through being moved to assent by its very object, which is known either by itself (as in the case of first principles, which are held by the habit of understanding), or through something else already known (as in the case of conclusions which are held by the habit of science). Secondly the intellect assents to something, not through being sufficiently moved to this assent by its proper object, but through an act of choice, whereby it turns voluntarily to one side rather than to the other” (ST 2-2 Q1 A4 Corp). The idea here is that, unlike a syllogism which compels the intellect to assent to the truth of it, assent to the truth of articles of faith must be chosen. There will often be evidence on both sides and thus believing in the truth of articles of faith is an act of the will.

Dewey and Whitman, according to Rorty, presented a narrative of America as a country in which the heights of human potential could be freely pursued. They hold out the possibility of a just society achieved through human beings’ own efforts. It is this vision of America propagated by the Old Left that Rorty is trying to resurrect in order to inspire the efforts of patriots to reform the political system.

However, I would suggest that this sort of narrative of America encourages us to expect more from our political community than it is actually capable of achieving. Rather than whitewashing the past, Rorty seems to be intent on whitewashing the future. The Whitman/Dewey vision of America does not succeed in freeing us from gods. It simply creates a new one: America itself. Rorty is quite correct to suggest that when confronted with evidence of our past failings as a nation it is not useful to ignore them or to wallow in self-loathing. But he does not seem to realize that the very self-loathing he condemns is a rational response to the exceedingly high expectations that he encourages. Rorty does not sufficiently appreciate the consequences of the fact that the withdrawal of the contemporary Left into the realm of cultural analysis and their belief in the ever-present specter of power came about, in part at least, because of the manifest inability of the old reformist Left to achieve anything like a classless and casteless society in America. As the narrator says of Boy Staunton in Robertson Davies’ novel *Fifth Business*, “You’ve made a god of yourself and the insufficiency of it forced you to become an atheist.”

Rorty’s response to these criticisms would perhaps be to appeal to the pragmatist mantra that usefulness constitutes truth. But I would suggest that it is precisely the false and utopian character of Rorty’s vision of America and its future which render it useless
and, what is more, dangerous. Faced with their inability to achieve economic and other equalities and thus betrayed by the only god they had left, some members of the Left responded as Rorty described, by withdrawing from politics all together into the realm of cultural analysis. But this is not the only course of action available. Another, equally rational possibility is to reject the god of equality entirely and instead look to politics as an avenue for achieving supremacy for one’s own group rather than as a means to the elimination of superiority and inferiority altogether. The disturbingly Nietzschean aspects of our contemporary political life could reasonably be characterized as a natural outcome of the disappointments inherent in political utopianism of all varieties. In addition, the compelling vision of a casteless and classless society when firmly embraced can be used to justify all sorts of immoral acts if these are seen as necessary in order to fulfill a country’s potential. Rorty is certainly correct to suggest that other-worldly god-like standards have been often dangerous to decent political and social life. On the other hand, making the nation into a this-worldly god surely does not lessen the danger. In fact, I would argue, it makes it worse.

Thus, I would suggest that many of the dangers commonly associated with patriotism come about as a result of the utopian character of some political narratives. Painting a utopian picture of the past can lead people to deny the existence of injustices within the political community and thus be an obstacle to reform. Utopian pictures of the past may encourage a stubborn adherence to the status quo or a longing to resurrect or repeat the glories of a bygone age. The deification of the past in all its forms is an obstacle to reform and an encouragement to retain various practices and traditions despite their obvious injustice. On the other hand, some political narratives present utopian
visions of a possible future that the political community can achieve. These visions of a future where war or injustice or poverty have been all but eliminated are so compelling that they can be used to justify the institution of public policies that are not only foolish but also dangerous. The vision of a classless, property-less society was used to justify the purges of Stalin and Mao, just as the vision of a powerful and racially pure Germany was used to justify Hitler’s “final solution.” On a lesser scale, one could argue that Lyndon Johnson’s claim that it is possible for Americans to “conquer poverty” paints a vision of America’s future which is just as utopian. The failure of projects like Johnson’s “War on Poverty” leads citizens to become disillusioned with their government and to either withdraw from politics or use it to gain as much as they can for themselves. A truly patriotic narrative of America would not paint a picture of some future classless society, but instead will emphasize the uniqueness of the American experiment, the good that we have done, and the good that is genuinely achievable in this country.

Thus, we can see that a patriotic narrative of some sort is essential to cultivating patriotism as I understand it. In order for citizens to perceive an affinity between themselves and their political community it is necessary for them to have some knowledge of the political community as a whole which extends through both time and space. The character of the whole, i.e. its particular end and the people which make it up, are not immediately perceptible to citizens, and therefore it must be presented to them by means of a narrative. In order for citizens to perceive the political community under some aspect of the good, the narrative in question must be a narrative of national self-

351 “Because it is right, because it is wise, and because, for the first time in our history, it is possible to conquer poverty, I submit, for the consideration of the Congress and the country, the Economic Opportunity Act of 1964” (Lyndon B. Johnson's Special Message to Congress, March 16, 1964).
esteem. In other words, it must present the political community as a group which is
dedicated to an end that is good and which is minimally capable of pursuing that end.
Such a narrative cannot and should not ignore a political community’s failings or the
times in which it has failed to live up to its commitments, but neither should it be a
narrative of unmitigated corruption and decay. Only a narrative which portrays the
political community as minimally good and capable of improvement can inspire citizens
to love it and to work for its betterment. I have also attempted to show in this section
why such a narrative can be legitimately regarded as a true narrative for all states which
qualify as genuine political communities.

7.3 Limits of Patriotism

We have now at last come to the point where we can discuss the all-important
question of the limits of patriotism. As I suggested at the beginning of this chapter, many
of the critiques of traditional patriotism that are offered by liberals such as Martha
Nussbaum and Jan Müller have to do with the fact that patriotism is generally conceived
of as a sort of unconditional loyalty. This understanding of patriotism is probably best
encapsulated by the famous toast by the 19th century naval hero Stephen Decatur: “Our
country! In her intercourse with foreign nations, may she always be in the right; but our
country, right or wrong.” Criticism of one’s country is often seen to be anathema to
patriotism because patriotism is believed to require absolute obedience and unconditional
loyalty from citizens. The understanding of patriotism which I have presented here,
however, does not require the patriot to adopt of this attitude. I have been at pains to
point out that there is a type of criticism which is in no way in conflict with patriotism.
Criticism that is designed to improve a country’s practices and bring them into closer accord with its particular understanding of the end of a political community is perfectly compatible with patriotism. I will now take the opportunity to argue that there are, inherent within my understanding of patriotism, natural limits to what a citizen may justly do on behalf of his country and the extent to which it can demand obedience and loyalty from him.

It will be as well to begin by pointing out that I have not, heretofore, spoken of patriotism in terms of loyalty. Loyalty to one’s country is often associated with patriotism in our common discourse, but I would suggest that this association somewhat obscures the true nature of patriotism. The word loyalty comes (through the French leial) from the Latin word legalis or “legal.” The *Oxford English Dictionary* defines loyalty as “faithful adherence to one's promise, oath, word of honour, etc.” The implication here is that loyalty involves keeping to the terms of some sort of contract or oath. There is a connotation of absoluteness or unlimitedness to the term; it implies the idea of “standing by your man,” so to speak. Being loyal to someone or something is not the same as loving it. Love sometimes requires an attitude of loyalty, but sometimes it requires the opposite. The notion of love encompasses any set of behaviors that might improve the object of one’s love, and thus it is a much wider concept than loyalty. When someone that we know has committed a crime, being loyal to that person would mean not turning them into the police, but being a friend might require seeing that they suffer the consequences of their crime. Being a friend to one’s country might likewise require revealing its failings and mistakes rather than keeping quiet about them.
I have thus suggested that the attitude of a patriot does not have to be unconditional loyalty under all circumstances. But, one might ask, how do we know when we have come up against the limits of patriotism? The theory of patriotism which I have presented above contains within it, four principles which act as a limit on how the patriotic citizen can and ought to behave with regard to his or her country. The first limiting principle is the one which I have called above the “principle of the multiplicity of particular goods.” I have many times emphasized that while there is a general end or function of all political communities there are many different specific institutional structures and practices by which that end can be manifest. There is no one regime or constitution which is the best absolutely. Different times, circumstances, and peoples require different types of regimes in which they can successfully both rule and be ruled. It is certainly true that some regimes may function on the whole better than others, but this is not a judgment that we are well-equipped to make. The structures, practices, institutions, and traditions of a particular political community will shape the desires and expectations of the people who live in it as well as being shaped by their activities. This means that it is very possible to say that America is as good a political community for Americans and France is for the French. The upshot of this principle is that a sense of the superiority of one’s country over all others is not a feeling which should be associated with patriotism. A patriot can have pride in his particular country’s accomplishments and can compare his country to other countries in those areas in which comparison is possible, such as technology or medicine or sports. However, there is no justification for believing in the absolute superiority of one’s political community over any other.
We may conclude from this principle several things about the proper behavior of a patriot. A patriot should realize that his preference for his own country over others, while not irrational, is a result of contingent circumstances. His country may be best for him because of his education and upbringing and habits, but this does not imply that it can or will be the best for everyone. Patriots should refrain from boasting of the superiority of their political community over all others. It is also not justifiable to fight a war in order to prove the superiority of one’s political community over all others, nor to try to remake other countries in the image of one’s own. This is the same principle that we instinctively apply to our dealings with other individuals. Just because I am happy being a philosopher it does not mean that philosophy is superior to all other pursuits, nor does it mean that I should try to make all other people into philosophers by force or persuasion. We would not be able to function if everyone was a philosopher and no one was a farmer or a shoemaker. The diversity of political communities also serves an important end. It not only prevents the possibility of one all powerful and oppressive government, it also allows for experimentation in various methods of organization that we can all learn from.\textsuperscript{352} Wars for glory or national pride do not serve any legitimate

\textsuperscript{352} Chesterton makes this point quite cleverly in his 1904 essay “The Patriotic Idea.” “People have perceived not that love is too insignificant to fight about, but that it is too important to fight about. Men have perceived, that is to say, that in these matters of the affections all combat is ineffective, since no combatant would ever accept its issue. Each of us thinks his own country is the best in the world, just as each of us might think his own mother the best in the world. But when we think this we do not proceed, or in the least desire to proceed by bellicose test. We do not set our mothers to fight each other in an amphitheater, and for the excellent reason that if one mother overcame another mother, it would not make the least difference to anybody” (599). Chesterton thinks of the preference for one’s own country over another as irrational, a contention with which I do not agree. However, the overall point is that genuine political communities which meet a basic standard of functionality are essentially incommensurable and therefore fighting over which is best is just as irrational as fighting over whose mother is the better mother.
purpose. They do not facilitate either the maintenance or the improvement of a political community and thus it is not the duty of the patriot to promote them or to fight in them.\footnote{353 One exception to this rule might be a war that was started for the purposes of glory or pride, but which it becomes necessary for the country to win in order to ensure its very survival. It might reasonably be supposed that a patriot could justifiably participate in such a war.}

There is, on the other hand, a sort of “flip side” to the principle of the multiplicity of particular goods. Just as it is impossible for a patriot to rationally profess the absolute superiority of his own political community or to attempt to prove that superiority through force of arms, so too is it impossible for him to rationally justify the existence of his own political community in all of its particularity. In the introduction to this dissertation, I discussed Alasdair MacIntyre’s argument for the incompatibility of patriotism and liberalism. MacIntyre saw the heart of this compatibility as stemming from the fact that “the essence of the morality of liberalism \[is\] that no limitations are or can be set upon the criticism of the social status quo.”\footnote{354 MacIntyre, “Patriotism,” 52.} The problem, as MacIntyre sees it, is that the morality of patriotism requires that the patriot exempt one important thing from rational criticism, and that is “the nation conceived \textit{as a project}, a project somehow or other brought to birth in the past and carried on so that a morally distinctive community was brought in to being which embodied a claim to political autonomy in its various organized and institutionalized expressions.”\footnote{355 Ibid.} To put this into the terms of my argument so far, the patriot is not permitted to question the very existence of his political community and its particular understanding of the political end.
My contention here is that the principle of the multiplicity of particular goods dictates that, in essence, MacIntyre is correct. However, it is not so much that the patriot, because of his commitment to patriotism, is barred from questioning the existence of his political community. It is rather that a rational justification of this sort is impossible to find, for the patriot or anyone else. Searching for this sort of justification is like asking me to justify forming a sewing club rather than a bowling league or a rock band rather than an orchestra. None of these groups has or can have, strictly speaking, a right to exist. But they all serve to promote some particular instantiation of a general human good. The patriot loves his country and is therefore committed to its continued existence, just as a mother is committed to the continued existence of her child. This love is based on a perceived affinity under some aspect of the good. The various circumstances which cause this affinity are essentially arbitrary and cannot be rationally justified. As we have said, however, this does not mean that the political community does not serve some important good. To ask whether America has a right to exist, to suggest that it should try to give the land back to the Native Americans or that it should give up and let its enemies destroy it -- these are not questions that a patriot can ask or positions that the patriot can hold. I would also suggest that these are also not positions that any serious moral person can hold. To speculate on such questions and to pursue such ends is pointless. The political communities that exist and of which we are members are a part of the background or circumstances in which our moral decision making takes place. To declare that the English do not have a right to rule Scotland or that the American colonists stole the Native Americans’ land does not serve may help to prevent future
crimes of the same variety, but a certain point past bad acts can no longer be redressed and must be forgiven.

The second principle from which we can draw conclusions about the limits of patriotism is the definition of the political community itself and the standard of minimum functionality. A political community, as we have said, is a group of people dedicated to and actively pursuing a common particular understanding of the general political end of ruling and being ruled in turn. A state which is not dedicated to the end of ruling and being ruled, but is rather dedicated to the pursuit of wealth and power for a privileged few is not, properly speaking, a political community and cannot compel the duty or the affection of a patriot. The citizens of such a state have no reason or obligation to further the interests of that state. A patriot is a friend of the political community as a whole, and where no unified whole exists there can be no patriotism, properly speaking. The idea of ruling and being ruled in turn requires some areas of freedom in which the citizen is allowed to direct his or her own life. The political community rules the citizen through its laws and in so doing educates the citizen in justice and teaches the citizen to rule himself. Thus, a totalitarian state in which there is no area of a citizen’s life which is free from interference by the state cannot be a political community. When, in Mussolini’s words, everything is “within the state, nothing outside the state, nothing against the state” there is no room for ruling and being ruled and thus no political community. The Platonic ideal of a totalitarian state, I would argue, has never existed because the level of coercion required to achieve it is impossible to obtain. However, the end of totalitarianism cannot be considered to be an instantiation of the general political end and therefore any state dedicated to totalitarianism (even if it has not achieved it) cannot be a
political community. States dedicated to totalitarianism of some sort are usually recognizable because the relationship between the citizens and the government is primarily characterized by coercion and fear, and autonomous sub-national groups are pretty much nonexistent.

A state can also fail to rise to the level of a political community when it does not have either the resources or the internal organization that is minimally necessary in order to effectively pursue its end. For example, a state where a large percentage of the population is starving cannot be a political community. People who are starving cannot rule or structure their own lives in any meaningful way because they are consumed every day by the necessities of mere survival. A state which cannot protect its people effectively either from external enemies or from extensive internal strife is also not a political community. Every political community will have some crime and will occasionally break out into civil unrest, but these events must be the exception rather than the rule. Basic peace and security is a *sine qua non* of pursuing the political end. I would also suggest that, for the most part, the rule of law is necessary to the existence of a political community. If citizens do not know what the limits of permissible behavior are, if they live in fear that some action which was acceptable yesterday will be prohibited tomorrow, then they cannot exercise rule over their own lives.356

Most importantly, a state cannot be a political community if its members cannot act as whole. Acting as a whole requires, first of all, a general agreement about ends.

356 I say “for the most part” here because it is possible that a political community could be effectively ruled by a sovereign who was not capricious. “The rule of law” usually implies a written code of some kind, but I think that in some circumstances all that would really be required would be a law that is promulgated in some way and which does not apply retroactively to actions committed before the law was promulgated.
This means that the members of a particular political community must have an agreement about the particular instantiation of the general political end that they are going to pursue. A musical group which is deeply divided between people who want to play the flute and people who want to play the piano will never be able to act as a whole. Secondly, there has to be some person or institution which is regarded as the legitimate representative of the whole and whose commands, directions, etc. are generally regarded as binding on the various members. Without these two things a state cannot function in pursuit of its end, and therefore cannot legitimately be considered to be a political community.

Thus, we come to the third principle which acts as a limitation on the behavior of the patriot. This principle, which is intimately related to the second one, is what we might call “the principle of finitude.” All political communities eventually come to an end and are replaced by other political communities. No political community can last forever, and the patriot must always keep this fact in mind when coming to a determination about how best to act. The end can come about through the disappearance or destruction of any one of the essential characteristics of a political community mentioned above. A political community can be destroyed because it lacks the basic resources to maintain its people or it can be destroyed because it cannot defend itself from other political communities. This is the way in which political communities were routinely destroyed in the past, although this method has become less prominent in the modern era. Political communities can also be destroyed because the consensus about ends and legitimate representation breaks down among their members. This can result in revolution or civil war or a country being weakened to the point where it is easily taken over by another country. This method of destruction is much more common in the
contemporary era for two reasons: first, because wars of conquest have become much less socially acceptable and second because, as we have argued before, the more democratic a political community is the greater the level of consensus among the people that is necessary in order for it to function. Political communities are necessary to human flourishing and will therefore always be a part of human life, but the existence of any particular political community is arbitrary.

All political communities go through internal struggles, but not all of these internal struggles signal that a political community is dying, just as all illnesses do not lead to the death of a human being. The moment at which a political community is no longer capable of surviving is often very difficult to identify, especially for those who are living through it. Most of these times these moments become obvious only in retrospect and even then the exact moment is not always clearly identifiable. For example, the fall of the Roman Empire in the west is often dated to 476 AD when the emperor Romulus Augustus was overthrown, but most historians acknowledge that this date is rather arbitrary. The Roman Empire in the west had ceased to be a viable political entity long before this date and puppet emperors continued to rule in name only after this date. In addition, national cultures often survive through the rise and fall of many political communities. I would suggest, for example, that the French Revolution of 1789 represented the formation of a new political community even though French culture and traditions persisted throughout these political upheavals. The point here is that when a political community is dead or in its death throes the act of a friend is to let it die, just as it is the act of a friend to let a human being die when it is clear they can no longer be saved. Acceptance of death is part of human life and it is not an act of love to stubbornly
resist the inevitable. A parent who pumps drugs into a dying child is not acting in the child’s best interests and therefore not acting like a good parent. In a like manner, when it becomes inevitable that a political community is going to die, the act of a patriot is to accept this and focus his or her energy on the formation of a new and healthy political community dedicated to a new understanding of the political end. I would suggest that monarchists who stubbornly attempted to return to the ancien régime many years after the Revolution of 1789 in France or the Glorious Revolution in England were not really acting as patriots should.

A firm understanding of the inevitability of the destruction of the political community can and should act as an important check upon the worst excesses of patriotism. As the consensus about the political end of a community breaks down, as it inevitably will, it becomes necessary to limit the freedom of the people in greater ways in order to for the political community to function. At a certain point this limiting of freedom, especially the freedom of dissenters, comes to be so obviously in conflict with the political community’s particular understanding of ruling and being ruled that it can no longer be legitimately sustained. At this point, supporting the government or the majority of the people in their efforts to hold the dying political community together can no longer legitimately be seen as patriotism because it requires actions that directly contradict the stated ends of the political community. At this point, the patriot is free to support the revolution, or the division of the political community into two separate entities or whatever seems to him to be the outcome that would involve the least suffering on all sides. The political community as he has known it has ceased to exist and the patriot must look for some other solution. In this way, we can see how patriotism, as I
understand it, does not mean supporting the government or the majority of people under all circumstances. A patriot should not participate in what is obviously illegitimate repression of his fellow citizens in order to try to save a political community which is no longer viable.

Finally, the fourth principle which limits the behavior of the patriot is the existence of what I have called “universally anti-social behaviors.” These are behaviors, such as murder, theft, and fraud, which destroy the harmony of any community. Where these behaviors go unpunished no community can flourish. The law in any political community should forbid these behaviors, and, as it is part of the patriot’s role to support the rule of law, the patriot should not engage in these behaviors against his or her fellow citizens for any reason. The role of the patriot is to maintain and improve the political community, and these sorts of actions actively undermine its existence. Therefore, the patriot cannot argue that murder and theft should be committed for the good of the country.

However, particular political communities do not exist in a vacuum. They exist, rather, in a world full of many different political communities which interact on a regular basis with each other. In other words, there exists a world-wide community of political communities, and this world-wide community can also be undermined by certain universally anti-social behaviors. For the most part, it is in the interests of everyone to maintain peace in this world-wide community and for the various members to have some universally agreed upon mechanisms for interacting with one another. It is for this reason that we have agreements about the way in which diplomats should be treated and the
sovereignty of foreign embassies, etc. Respecting these sorts of rules is part of the duty of a patriot because it is in the best interests of his country.

Although it is generally in the interests of political communities to refrain from going to war, sometimes war is necessary. But, as Cicero maintains, the end of just war must be to achieve peace in the future. It is always the responsibility of a patriot to keep in mind that after a war is over his political community must continue to interact with other political communities and with the people whom they are currently fighting. The rules of just war, as they have come down to us over the centuries beginning with Cicero, may reasonably be understood as prohibiting universally anti-social behaviors within the world-wide community. These rules outlaw behaviors which will make it impossible or very difficult to obtain peace in the world-wide community in the future and security for individual political communities. These rules acknowledge that, in itself, war is never a good thing and seek to limit its effects so that peace may be more speedily attained and more lasting once it is attained.

These rules include allowing the enemy to surrender peacefully if they choose and not killing or mistreating prisoners of war. They also include respecting the sanctity of messengers and envoys from the enemy and refraining from killing civilians. It is the responsibility of the patriot always to respect these rules because they benefit his political community in the long run, even if his military superiors and his government do not realize this fact. In this way, we can see that the requirements of universal justice are binding on the patriot and he is not free to murder and steal from people just because they are not his fellow countrymen.
Thus, through the use of these four underlying principles of patriotism, as I have presented it, we have shown that there are certain limits on the acceptable behavior of a patriot. Patriotism means being a friend to one’s country, and, depending on the circumstances, this does not always entail loyalty. Abiding by the strict terms of one’s agreements or following the direct orders of one’s superior is not always the act of someone who wishes to both maintain and improve his or her country. In addition, the “principle of the multiplicity of particular goods” requires that the patriot remember that his country’s way of doing things is not either the only way of doing things or the best way. A belief in the superiority of one’s own political community over all others is not a belief that is rationally justified and it is not a belief that is appropriate to a patriot. Remembering that there are a myriad of ways in which the general political end can be instantiated serves to mitigate the tendency of patriotism to become chauvinistic. Moreover, all political communities, like all human beings, will one day cease to exist. This destruction comes about through the loss of one of the essential characteristics that make up the definition of a political community. When a political community is in its death throes it is not the responsibility of a patriot to keep artificially pumping oxygen into its lungs.

Finally, the behavior of the patriot is limited by the requirements of universal justice. Justice is that which maintains a community and there are certain behaviors which can be called universally unjust because they destroy the fabric of all communities, no matter what their particular end. A patriot cannot legitimately engage in any of these behaviors because they are destructive of the world-wide community of nations and thus not in the interests of his country. The rules of just war are one way in which these
universally anti-social behaviors have been codified and they represent a legitimate limit on the behavior of the patriot. Thus, we have shown that patriotism, as I understand it here, does not mean blindly following the dictates of one’s government. The patriot is often required to think independently about what is in his or her country’s best interests and to act accordingly.
CONCLUSION

Here, at the end, it is appropriate for us to return to the beginning and recall the questions with which this dissertation began. The terms *patriot* and *patriotism* have been fraught with controversy since their first appearance in the English language more than 300 years ago. This controversy, as we have seen, seems to center around the question of the relationship between one’s duty to one’s country and one’s obligation to do the good. The potential for conflict between these two duties will, naturally, depend upon how one understands both morality and patriotism. Thus, my examination of this conflict has inevitably led to an exploration of both of these concepts in some detail. In his essay on patriotism, MacIntyre maintains that there is an inevitable conflict between what he calls “liberal morality” and the “morality of patriotism.” To the extent that liberal morality requires that justice be impersonal and that all social structures be open to rational critique, it comes into direct conflict with a patriotism which is based on commitment to a particular group or institution whose very existence is never questioned.

I have attempted to examine the validity of MacIntyre’s claims about this conflict through an exploration of the theories of two partisans of liberal morality – Martha Nussbaum and Jan-Werner Müller. Nussbaum, at least in the main body of her work, is famous for her critique of traditional patriotism from the point of view of a universalistic understanding of justice, which she calls “the capabilities approach.” Nussbaum declares that the distinctions based on nationality, like distinctions based on race or gender or
ethnicity, are “morally irrelevant.” Justice should be based upon the characteristics of our common humanity, what we need in order to flourish as human beings, and not on arbitrary and contingent characteristics. The conflict between morality and patriotism in Nussbaum’s theory is, therefore, quite evident.

I have attempted to show that an approach to justice which ignores particular relationships, such as those between fellow citizens, presents a false picture of the human condition, and is, therefore, practically unworkable. When we come to consider what our specific duties in justice are, we are already imbedded in a variety of particular relationships, some chosen and some not. These relationships are often formed on the basis of contingent or arbitrary circumstances, such as where we were born or where we choose to live, but these circumstances come to be morally relevant because they structure the transactions that we engage in and the obligations that we undertake. Nussbaum’s capabilities theory disregards these sorts of contingent relationships and therefore, has a very difficult time outlining the specific duties of both institutions and individuals. Trying to decide how a human being or an institution should distribute resources without taking into account previously existing transactions and relationships, without being able to legitimately prioritize the needs of those closer to us, turns out to be nearly impossible. Moreover, the extensive list of capabilities which Nussbaum considers essential for human flourishing does not sufficiently take into account the different preferences of human beings and, I have suggested, severely limits the opportunities for human flourishing in some circumstances.

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I have also argued that Nussbaum’s account of the passions involved in patriotism does not sufficiently explain the way in which human affections are formed and therefore misunderstands the phenomenon of patriotism itself. Nussbaum is suspicious of traditional patriotism not only because it gives priority to “morally irrelevant” characteristics, but also because she regards it as both irrational and unreflective. Nussbaum suggests that while it is natural for human beings to form an affection for those things which are familiar to them, this affection is irrational and often dangerous because it is based on habit and the passage of time rather than on any rational judgment about the moral quality of the object. I have suggested that habit and time are not sufficient for creating affection. We will not develop and affection for an object unless we perceive it under some aspect of the good. When we form an affection for our political community it is often because we experience as it good in that it fulfills its proper role in our lives. This is not a judgment that we come to through a detached weighing up of the political community’s good and bad qualities. But while it may be unreflective, it is certainly not unrelated to the object’s good. While she is suspicious of patriotism, Nussbaum certain recognizes the power of the emotion and its potential to facilitate unity and to promote selfless action. In her most recent work, Nussbaum attempts to harness these passions by encouraging what she calls “purified patriotism.” I have argued that this attempt to combine patriotism and liberal morality fails, as MacIntyre predicts that it will, because one must ultimately choose between the principles of liberalism and an attachment to a particular political entity which may or may not live up those principles.
We can see this problem more clearly in the discussion of Müller’s constitutional patriotism. Müller, like the later Nussbaum, is interested in harnessing the power of patriotism to promote unity within multicultural societies while at the same time limiting the obligations of patriotism to the point where they are compatible with the fundamental moral commitments of liberalism. Müller tries to obtain this goal by altering both what he calls the “object of attachment” and the “mode of attachment” associated with traditional patriotism. Müller makes the object of the patriot’s attachment into a “constitutional culture” which is dedicated to the fundamental principle of liberal equality and freedom, but also continuously adapting and reinterpreting the particular way in which that principle is instantiated. The problem with this technique is the Müller does not seem to be able to decide whether the object of attachment is really the principles of liberalism itself or the particular manifestation of them found in a specific country. He appeals to the former when he wants to emphasize the openness of constitutional patriotism and to the latter when he wants to emphasize its specificity. I have argued that the object of the patriot’s attachment cannot be both of these things because an attachment to the principles of liberalism does not necessarily bind a person to any specific country, and an attachment to a particular constitutional culture requires holding its essential features to be sacrosanct and beyond criticism. Müller also attempts to make patriotism more palatable by altering the mode of attachment from love to critique. However, I have suggested that the mode of critique cannot inspire service to one’s country because the critic is not necessarily interested in the preservation of the object of his critique one way or the other.
Through the examination of these two thinkers it is possible to draw several conclusions about the relationship between patriotism and liberal morality. First of all, Nussbaum’s version of liberalism is certain incompatible with traditional patriotism, as she herself maintains in her earlier work. Secondly, I have argued that the attempts to formulate a version of patriotism that is compatible with liberalism offered by both Nussbaum and Müller fail because it is impossible to construct a version of patriotism which does not prioritize the relationship among citizens over other relationships and which does not exempt from criticism (at least most of the time) the very existence of a particular political community itself.

Based on this examination of Nussbaum and Müller we can articulate several features which would be a necessary part of a moral patriotism. First of all, the object of the patriot’s attachment cannot be a principle or a set of principles. A patriot must be attached to a particular political community and committed to its maintenance and improvement regardless of whether or not it can “objectively” be regarded as the best political community. A commitment to a certain set of principles will automatically dictate that one should be attached to whatever political community best instantiates those principles whether or not it happens to be one’s own. In order for this sort of commitment to a particular political community to be morally acceptable, groups of persons considered as wholes have to have some sort of moral standing. I have argued that groups can have moral standing because, while the divisions on which they are based may be arbitrary, they structure our relationships with other human beings and affect the sorts of transactions we engage in and the obligations that we enter into. In order to prioritize our commitment to the political community in particular (over and above other
sorts of groups), the political community has to perform an important function in individual human flourishing, a function which human beings cannot achieve on their own. Secondly, the mode of patriotic attachment has to allow for the possibility of productive criticism of one’s political community while still being able to inspire passionate attachment and sacrifices on the part of individual citizens.

In Part III, I offer a sketch of an understanding of patriotism based upon these general principles. I begin with an outline of “Socratic patriotism” based on an interpretation of Plato’s *Crito*. From the *Crito*, I draw an understanding of the function that the political community plays in citizens’ lives including the provision of security, basic material goods, and an education in the principles of justice. The *Crito* suggests that when the political community adequately provides these things to its citizens they incur an obligation to maintain the political community through upholding its laws. Thus, the duty of the citizen to maintain his or her political community can be seen as compatible with a universal understanding of justice in which human beings incur obligations based upon services rendered to them by particular individuals or groups. This obligation is contingent, however, upon political community actually performing its functions and on it allowing the individual a meaningful opportunity to persuade it to alter its demands. Socrates decision to acquiesce to the demands of Athens draws also draws attention to the role of the political community in facilitating the philosophical life and the pursuit of truth.

In Chapter V, I expand upon the understanding of the political community and its role contained within the *Crito*. First, I offer a more detailed sketch of the education in justice provided by the political community. Justice is that which maintains a community
and allows it to function in pursuit of its end. Because human beings share a common
nature we can make some general pronouncements regarding those types of behavior
which are universally unjust because they destroy all human communities. However,
most of the rules of justice will be specific to the particular society in which they are
found and find their justification in the particular instantiation of the political good which
that society is trying to pursue.

Second, I introduce into the argument a general end which all genuine political
communities are attempting to pursue – allowing all of their citizens to participate in
ruling and being ruled in turn. Ruling and being ruled means both having some freedom
to structure your own life plan and having some ability to participate in the structuring of
the common life of the political community. How a political community negotiates the
boundaries between ruling and being ruled can vary greatly, but in general they must
refrain from pursuing either totalitarianism or kleptocracy. Finally, I argue that, while
there is no specific size which a political community has to be, the functions that I have
described cannot be fulfilled by a world-state. There are many practical considerations
which mitigate against the vision of the cosmopolis, but in particular I argue that because
of the multiplicity of ways in which the political end can be realized a variety of political
communities are necessary in order to narrow the scope of the conflict and allow for the
possibility of rule through rational persuasion.

In Chapter VI, I go on to describe what I consider to be the proper mode of
patriotic affection: friendship. This discussion draws on Aquinas’ understanding of the
two different types of love: love of friendship and love of desire. Love of friendship and
the habit of friendship which it gives birth to, begins with a perception of affinity
between the lover and the object of his or her love. This perception of affinity requires that the lover have some knowledge of the object and that he or she perceive it under some aspect of the good. When a person has love of friendship towards an object, he or she desires the good for that object. This means that the lover desires not only to maintain the object but also to improve it according to its type. To be a friend towards one’s political community, therefore, means having a disposition to act in such a way as to both maintain and improve the political community. What this specifically requires depends a great deal on circumstances, but we can be sure that being a friend to one’s country sometimes means having to criticize its failings. This criticism must, however, be intended to improve the political community and must be specific to the particular understanding of the political good which is operative in that community. The political community is, therefore, not exempt from rational criticism by the patriot, but patriotism does, for the most part, require an unquestioned commitment to the right of the political community to exist in its particular form.

In the final chapter, I outline the foundational principles of my argument for patriotism as friendship and for the importance of the existence of particular political communities in human lives. These principles I call “the principle of anti-utopianism” and the “principle of the multiplicity of particular goods.” The former maintains that no human being or human institution can ever obtain perfection, but that they nonetheless can do good in particular circumstances and at particular times. The latter maintains that while we can speak of a general good of both individuals and groups, there are many different particular manifestations of that general good, which are, for all intents and purposes, incommensurable with one another. Just as it is possible to flourish as a human
being through the pursuit of many different occupations, so it is possible to pursue the
good of a political community through many different institutional structures and
practices. We are not really capable of measuring up these different particular goods
against one another to decide “who is a better human being?” or “what is a better political
community?” It is possible, at the extremes to identify human beings or communities
which do not function at all, but in the vast area in the middle these judgments are very
difficult if not impossible to make.

Finally, I offer an outline of the limits of patriotism as I understand it. Offering
some limits to the acceptable behavior of the patriot is essential to constructing a
patriotism which can be considered morally acceptable. In this final section, I suggest
that the underlying principles of my argument for patriotism contain within them certain
necessary limits. First, the way in which I define the political community itself limits the
acceptable objects of patriotic affection to states that perform the proper functions of a
political community. A state which is not dedicated to the good of the people as a whole
or which attempts to influence every aspect of its citizens’ lives is not fulfilling its
functions adequately. Second, the “principle of the multiplicity of particular goods”
requires a patriot to remember that no political community can reasonably be judged to
be superior to all others and that loving one’s country does not allow for wars whose goal
is to prove the superiority of one political community over another. Third, the “principle
of anti-utopianism” dictates that all political communities will eventually come to an end.
When a political community is no longer capable of functioning, the patriot must let it die
and attempt to construct or find a new political community to live in. Fourth, the
understanding of justice which I have outlined allows for the possibility of universally
anti-social behaviors such as murder and theft. The patriot is not allowed to engage in such behaviors because they are ultimately destructive of all communities including his own.

Thus, I have attempted to illustrate that while patriotism may be incompatible with some understandings of morality (such as the liberal morality describe by MacIntyre and championed by Nussbaum and Müller), it is possible to construct an idea of patriotism which while taking into account the social embeddedness of human life is still limited by some general universal principles. According to MacIntyre, liberal morality is a permanent source of moral danger because as it divorces morality from the particular it loses sight of the passion and friendship that are essential to human flourishing. We are left with nothing more than a cold and impersonal justice that cannot bind us to each other in a way that brings out the best that we are capable of. The morality of patriotism, on the other hand, is a source of moral danger because it sees nothing outside of the narrow concerns political communities which we inhabit. I have suggested that neither of these ways of looking at the world is sufficient to the dignity and capacities of the human person.

At this point in history, “liberal morality” is certainly more popular in the academy than the “morality of patriotism.” At the same time, however, patriotism still holds a very prominent place in within our public discourse and in the hearts of many individuals. A decade or two ago, with the fall of the Soviet Union, the advent of NAFTA and the massive increase in size of the European Union, the world may have seemed well on its way towards the elimination of the nation state and the advent of the cosmopolis. More recent times, however, have seen a resurgence of particular
attachments of many varieties all over the world. The surprising victory by several far-right nationalist parties in the 2009 European Parliament election is just one example of this trend. It is perhaps not surprising that this resurgence of nationalism is so powerful in Europe which has long been at the forefront of the movement away from the nation state and towards substantive universal human rights. If the argument of this dissertation is correct, then a backlash against this movement was inevitable given the way in which its principles fail to take into account certain realities of the human condition including the importance that we place on particular relationships and fundamental multiplicity of particular goods. This resurgence of nationalism is a potentially very dangerous phenomenon given the quite openly racist positions of some of these nationalist groups and with the horrifying spectre of Europe’s previous flirtation with nationalism in the 1930’s and 40’s constantly in our minds. If we are to avoid these dangers in future, it is necessary to articulate an understanding of the relationship between the citizen and his or her political community which both understands and legitimates an attachment to particular groups while at the same time placing identifiable limits on that attachment. If it is true that we are headed towards a resurgence of particular political loyalties and that the goal of universal brotherhood has yet again alluded is, we can perhaps find wisdom, here at the end as we did in the beginning, from the words of G.K. Chesterton:

Do not let us admit for a moment that in thus turning English loyalty to England we are serving merely England or ourselves. We are taking a turn which our great Christian civilization must take if it is to live. It is an old civilization, and it is for a season tired – tired of civilization, tired of cheap culture, tired of skepticism, tired of talk, tired of hearsay, tired in a word of Imperial politics. And it must return, as it did in the adoption of Christianity, to intensity and humility, to a devotion to particular things. About our European Imperialism let us remember primarily one thing, that it has all happened before. The end of the world happened a thousand years ago. At the end of the Roman era everything that was Roman
seemed to have gone stale forever. The world was with infinite agony made young again, because there were some tribes the Empire had never conquered, and some scriptures that it had never read. . . Such was the happy failure of Imperialism; the human mind scarcely dares imagine its success. Who can face the notion of a power which has destroyed everything else suddenly growing sick of itself? What pessimist could have pictured the great Empire, at the very instant when it had discovered Roman roads and Roman trophies to be vanities, stretching out its arms to the East and to the West, and finding nothing but its own intolerable omnipresence – finding nothing but Roman trophies and Roman roads? ("The Patriotic Idea," 618-9).
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