

Censorship in the Age of Identity Politics

MARGARET MARTIN
Faculty of Law, Western University

UFMG/UFPA/USP/UFPR Seminar Series in Law and Philosophy
Draft for Oral Presentation: treat accordingly¹

In his *New York Times* article, “Speaking as a White Male,”² David Brooks asks: “How much are you in control of your own opinions?” Brooks adds that “I ask this sincerely because, as you’ll see, I’m trying to think this through and I’m not sure how.” He rightly notes that thinkers, ranging from Hannah Arendt to George Orwell, believed that “you could transcend your own background and render independent and objective judgments about society.” The claim is that through study, and through empathy, we can rise above the contingency of our embodied selves and strive to contemplate existence, or aspects of it, from a universal standpoint. Currently, there is a widely voiced insistence that the prism through which we view the world is constructed solely by biological and/or psychological traits. We can only speak from a subjective perspective – our opinions shaped by race, gender, and sexual orientation, etc. While Brooks cannot see a clear point of entry into this debate, he is deeply worried about the implications of the rise of this new and growing consensus about the limits of permissible speech. He maintains that our “political system is based on the idea that persuasion and deliberation lead to compromise and toward truth.”³ The current trend is founded on a view of the world that rejects all of these assumptions. Brooks, I will argue, is correct that the repercussions of the current mindset are far-reaching.

In what follows, I will argue that one of the main culprits of this illiberal turn towards censorship is liberalism itself. More specifically, I will argue that the idea of the liberal “self” is implicated in the new movement of censorship and identity politics. While identity is undeniably central to many of the urgent struggles of our time, the importance of identity is not lost even if the assumptions underpinning identity politics turn out to be more problematic than they seem to many. This particular conception of the self – the self as an isolated, abstract chooser – which informs the current mindset, is both symptom and cause of the shift in thinking that Brooks has identified. Contrary to the common view, philosophical ideas, including ideas of the self, are neither irrelevant nor inert. How we think of ourselves has an impact on how we live, which, in turn, influences how we think. These barely visible assumptions – assumptions that make certain views appear to be self-evident – may be usefully thought of as components of what Charles Taylor calls the “social imaginary.” Taylor coined this phrase to capture “the way we collectively imagine, even pre-

¹ Note to readers: I realize that I must turn this essay into a short book if I am to discharge my argumentative burden.

² David Brooks: <https://www.nytimes.com/2018/03/22/opinion/speaking-as-a-white-male.html>

³ Ibid.

theoretically, our social life ...”.⁴ These background assumptions make certain opinions seem obvious and beyond reproach, but, significantly, this does not mean that the seemingly self-evident views are correct. An exploration of the assumptions that inform liberalism can also help to explain the rise in identity politics, in addition to other familiar features of our current political landscape.

The liberal self, as an idea, traces back to Thomas Hobbes. Hobbes is rarely thought of as a card-carrying liberal, given his strong authoritarian leanings, but he introduces us to ideas that are essential to the liberal worldview. Hobbes is therefore, an indispensable figure in the story of liberalism. The liberal thinkers that follow him, including John Locke and John Stuart Mill, adjust the Hobbesian vision of society in various ways, but they all remain committed to the conception of the self he so powerfully delineates. Once the new liberal worldview is explored, the echoes of Hobbes are readily identifiable. These connections help to justify my starting point, while simultaneously serving as a warning that the current path on which we find ourselves may be more problematic than it appears.

The first two sections of the paper explore the liberal self and its connection to Hobbes. I will begin with an exploration of Hobbes’s state of nature, with a focus on his discussion of equality. Equality, we learn, is the product of a host of intellectual maneuvers – maneuvers which render it highly implausible state of affairs. The aim of this section is not to be dismissive of equality as a liberal ideal, but rather to see that great care must be taken to identify the nature of the end and the means that can serve this end. In the second section I will then move on to identify the link between the liberal self and the capitalist self – both are rooted in the idea of contract, which (not coincidentally) undergirds *Leviathan*. Not only is Hobbes’s famed social contract indispensable to his account, but so is the institution of contract law. Both pre-suppose conditions of equality and both require a conception of the self as “abstract chooser.” Once we see this, we can begin to see the links between capitalism and identity politics – assumptions that are often hidden from view.

Once we have this particular account of the self in our sights, I will turn to the work of Patrick Deneen, who illustrates the way in which this conception of the self has shaped our thinking, and in turn, shaped society: if we think of ourselves as isolated choosers, we become isolated choosers. Communal bonds are weakened in pursuit of a particular conception of freedom, namely, freedom to choose the things we desire. Of course, these transformations are not the product of thought alone; rather, they are generated out of changing socio-economic conditions (which, of course, serve to re-enforce a particular way of thinking). Nevertheless, the main point is that the assumptions that inform the dominant social imaginary are merely assumptions. They are not facts or simple truths, as many seem to suppose today.

⁴ Charles Taylor, *A Secular Age*, 145. Taylor is not suggesting that everyone living in a particular society, at a particular moment in time will adhere to the same worldview. Rather, the social imaginary is comprised of widely shared assumptions that capture an age. For instance, it is not common for people in the West to believe that a drought is a sign that the gods are punishing us. As Taylor remarks, we live in a “disenchanted” age of science, which is the product of the scientific revolution.

Once we see these assumptions clearly, we can also see that the new censor is overconfident. She believes she is in possession of firm truths so she quickly moves from the belief that a certain opinion is wrong, to the belief that we ought to censor that opinion. Even if she is (likely) right about the status of the belief in question, she quickly presupposes that a society would be better if those with opposing views are silenced. Should liberty be curtailed for the sake of moral correctness? And, further, who gets to decide? The kind of certainty the new liberal censor exhibits is allusive: like all of us, she too is appealing to contestable philosophical assumptions that stand in need of defense. This will open up the need for more debate, not less debate, about the limits of permissible speech.

In part four, I explore the link between these assumptions about the self and the rise of identity politics. The connection between identity politics, censorship and the liberal left becomes visible when we remember that we do not think of ourselves as abstract choosers, but as embodied, individuated selves with distinct characteristics. The influence of Hobbes's vision of the self is hard to see precisely because the self is not empty as he pre-supposes; rather the self is composed of all the characteristics that we are unable to discard – the various physical and psychological traits that are the focus on identity politics. Once the *embodied* conception of the liberal self is placed in relief, we can begin to explain the call for censorship, and the sense of moral certainty that often accompanies it. This, in turn, helps us to grasp why Mill's version of liberalism, and in particular his views on free speech, have lost traction.⁵ Only by understanding the world of theory are we able to explain strains of political thinking that have become commonplace.

In the closing section of this paper, I will add another layer to the story of liberalism in the hopes of elucidating the relationship between the “live and let live” liberalism of old and the new moralized version of liberalism that comprises the worldview of the new liberal censor. At this juncture in the argument, I will follow Samuel Ajzenstat and maintain that the second moralized version of liberalism is borne out of the first: the inherent instability of political liberalism produces its own demise. Thus, I agree with Patrick Deneen's claim that liberalism is responsible for its own destruction, although the story I offer is slightly different. I am also in agreement with Deneen's account of modern society points us towards Hobbes's state of nature:

Liberalism effectively remakes the world in the image of its vision of the state of nature, shaping a world in which the theory of natural human individualism becomes ever more a reality, secured through the architecture of law, politics, economics, and society.⁶

Unlike Deneen, I leave open the possibility (and indeed the desirability) of establishing a liberal order. The version of liberalism that I endorse is the thinnest version of this political doctrine is generated out of the pragmatic need to ensure that people with diverse views can live together

⁵ To be clear, it is not my aim to defend Mill's account of free speech. Rather, it is to explore the contours of liberalism, in several of its manifestations.

⁶ Deneen, “Unsustainable Liberalism,” *First Things*. <https://www.firstthings.com/article/2012/08/unsustainable-liberalism>

peacefully. But but I concede that even this thin version is hard to maintain.⁷ Given that I will argue that liberalism both begins and ends with Hobbes, Hobbes is the starting point for the reflections on censorship and the liberal state.

1. Hobbes, the Liberal Self and the Presumption of Equality

If we hope to address Brooks's query, we must begin by understanding the components of the liberal self. The liberal self is animated by three interconnected ideas. First, the self is conceived of as isolated and autonomous. We are complete as individual selves. We live in societies, but according to this view, we do not need to do so to be fully human (societies are merely an aggregate of isolated individuals). We are defined, not by our connections to others, but by our ability to choose such connections. This brings us to the second idea: the liberal self is fundamentally a choosing self. This conception of the self seems self-evident to many given that choice is often equated with freedom: we choose where to live, which home to buy, who to marry, whether to marry, who to leave our property to, whether to have children, how many to have, where to shop, what to buy, etc. The objects of our choices change, and the value of the objects remains (according to this view) relative to our desires. Third, and finally, a key tenant of liberal doctrine is that everyone is believed to be equal. This familiar presupposition underpins the democratic form of governance, and it undergirds the idea of human rights.⁸ These three ideas – that we are autonomous, choosing selves who are born equal – are more radical than they may seem.

For many, this conception of the self may seem self-evident or wholly irrelevant (or perhaps wholly irrelevant because they are self-evident). In order to begin to see the significance of the idea of the liberal self, we must recognize its novelty. Patrick Deneen reminds readers that the locus of personal identity in the West was, until very recently, communal in nature. The self was conceived of as fundamentally social and the communities, religious or otherwise, played a central role in both defining and shaping individual identity. One example offered by Deneen turns on what's in a name. Smith and Taylor, for instance, are common surnames. These names immediately indicated all the key markers of identity at the time: the name conveys who one's father is, and what he does (and what you will likely do) for a living.⁹ Personal identity, family, and occupation, and, of course, class, were wholly intertwined. They were the product of birth and not choice. Each person was born into a country, a culture, a family, a profession, and a religion. Each affiliation came with a set of defined expectations – roles that defined each person from birth to death.¹⁰ The idea that individuals both lived in communities and needed them to be fully human, animated this older worldview. Consequently, membership came with obligations. The point was not simply that people and communities needed each other, but that they *were* each other.

⁷ The thin version I have in mind relies on the familiar distinction between the right and good: this kind of liberalism requires the state (and hence the law) to adopt a neutral posture between conceptions of the good, to the extent that this is possible.

⁸ It was very much a presupposition in the works of contract theorists, but it has now has the status of a fact.

⁹ Deneen, Lecture, see xx

¹⁰ See Aristotle, *Politics*, book 3, chapter 6.

This older vision of *the self* placed emphasis on a particular kind of education, namely moral education. Education was not only directed at expanding knowledge or learning a craft. It was also directed at the ability of individuals to develop character traits (for example, self-control, courage, kindness, etc.) and control others (for example, anger, selfishness, desire, appetite, etc.). The focus of this earlier conception of the self was not on the exercise choice *per se*, but on making sure people had the capacity to make good choices. Only by controlling one's appetites and emotions is deliberation and choice possible: if people are driven by their barely controllable appetites, or by ignorance, their choices are not "free" in any meaningful sense. According to this older worldview, all choices are not viewed as equally valuable, and, moreover, not everyone develops the capacity to make good choices to the same degree. Pleasure, according to the ancients, was a false god, at least insofar as it was viewed as an end in itself.¹¹ Conversely, leading liberal thinker, J. S. Mill, insists that the maximization of pleasure is the proper end at which both the individual and the society are orientated.¹²

An equally dramatic shift in thought pertains to the place of the divine. The older world order placed some account of God (or "the good") at the top of the hierarchy. Perfection was the province of the divine; imperfection was humanity's inescapable fate.¹³ Perfect equality, for instance, was also an otherworldly ideal – to the extent that people could participate in it, this was left for the afterlife. Liberalism undercuts all of these ideas and intentionally so. Hobbes, while not himself a full-fledged liberal, was one of the first thinkers to challenge this older conception of self and the vision of society that springs from it. He offers a radical rethinking of the human condition that introduces the presupposition of equality while displacing the assumption that hierarchy is natural and that God is at the top of the hierarchy. Hobbes, as we will see, needs to presuppose that humans enjoy equality in order to ensure that we can out of the imagined state of nature and enter into civil society.

In *Leviathan*, Hobbes re-imagines the relationship between the individual and his place in the world, targeting Aristotle, who failed to offer a "true science."¹⁴ He also challenges the common views of his day. One of his central worries was religious affiliation.¹⁵ Hobbes identifies religion as one of the causes of war, and in order to secure peace, he seeks to bind people to the state over and above their God or their church.¹⁶ Subsistence out of fear was the philosophical recipe he devised to solve the very real, and very bloody, practical problems of his day. Instead of fearing God, people should fear the state. Instead of having a vision of otherworldly perfection, which leads citizens to

¹¹ Aristotle, *Nicomachean Ethics*, book 1, chapter 5.

¹² J.S Mill, *Utilitarianism* (1863), chapter 2. Mill introduces a distinction between higher and lower pleasures, but it is not clear that this is a distinction he can have. Jeremy Bentham equates the good with pleasure in a more straightforward way.

¹³ For a discussion of this point, see N.E. Simmonds, *Law as a Moral Idea* xx

¹⁴ Thomas Hobbes, *Leviathan* ed Edwin Curley (Cambridge: Hackett Publishing 1994) iv [13].

¹⁵ See, for instance, his rejection of the possibility of "incorporeal substance," instead insisting that all we have are "appetites and aversions". Ibid, iv [21-24].

¹⁶ For an excellent discussion of this point, see Quentin Skinner. xx

place God above state, Hobbes famously lowers our sights.¹⁷ Hobbes replaces the idea of eternal life at which we should aim, with an imagined state of nature from which we must escape. His state of nature an otherworldly tale marked by a kind of hellish repetitiveness. Without the state, Hobbes insists, we are destined to be solitary scavengers, poised eternally for war. In this condition, even the winners are losers. Life promises to be “nasty, brutish, and short.”¹⁸

In order to achieve the task of offering a “science” of the human condition, Hobbes prioritizes statistical regularities over the idea of human potentialities, thereby excising the latter. He insists that *everyone* fears death above all else, and proceeds to erect the state upon the strength of this shared emotion.¹⁹ He strips humans of all of their known affiliations and characteristics, leaving the bare idea of a choosing, appetitive self. Hobbes then places these abstract choosing selves in a fictional land where goods were scarce and we all want them. Not only is death the most feared outcome, but our appetites are uncontrollable. We cannot help but opt for survival above all else; we cannot help but pursue the things we desire. Radical equality, which Hobbes presupposes, is both the source of the conditions of perpetual war and, as I will argue, the source of the possibility of peace.

The source of war in Hobbes’s imagined state of nature stems from the fact that goods are scarce and appetites are insatiable. It also stems from the fact that the individuals in the state of nature are making subjective judgments as they navigate this barren land. Individuals, Hobbes insists, will always want more, but there is not enough to go around. Hobbes knows, however, that these assumptions alone do not ensure that his imagined war of all-against-all takes hold. Hobbes also needs to defend the claim that humans are equal. He insists that factual equality persists in the state of nature: there is a relatively fair distribution of natural advantages, namely, strength and intelligence.²⁰ Any dramatic differences would make it reasonable for the weaker to submit to the stronger for the sake of self-preservation. But this would ensure that hierarchy (and possibly slavery) would be the “natural” condition of mankind, rather than equality.

To avoid this result, Hobbes dissolves the family and rids the state of nature of women and children. It is this process of ruthless abstraction that enables him to establish the presumption of “factual” equality.²¹ But, significantly, even this highly artificial maneuver fails to secure the conditions for perpetual war. Hobbes needs another assumption to ensure that his state of nature is marked by “natural” equality rather than hierarchy.²² Every individual in the state of nature must also *believe* that he is capable of winning each battle. Without this assumption about human psychology, individuals would be led to submit rather than to fight. This, of course, would be done for the sake

¹⁷ Strauss/Oakshott

¹⁸ Ibid., xiii [9]

¹⁹ Ibid., xiv [1] It is worth noting that this is a contested reading of *Leviathan*. See Richard Tuck, “Hobbes’s Moral Philosophy,” *Cambridge Companion to Hobbes*, ed. T Sorell (Cambridge University Press, Cambridge: 1996), 188.

²⁰ Ibid., xiii[1].

²¹ Ibid., xiii [2].

²² The hierarchical relationships may produce war as well, but the vision will be closer to Nozick’s account. See Nozick, *Anarchy, State and Utopia*.

of their own survival. Hierarchy, not equality, would once again emerge as humankind's natural state. Hobbes spies this problem and insists that everyone in the state of nature is confident is his potential for victory. Everyone in the state of nature enjoys "equality of hope."²³ Even in his imagined space of his state of nature, equality is a hard-earned achievement. Equality is a fiction – but it is this fiction that animates his entire account. Only if we are equals can we then exercise our reason and collectively consent to live under the power of the Sovereign thereby creating the state.

It is important to recognize that Hobbes's state of perfect equality is presented as a nightmare that is meant to scare us away from the living as equals. After all, in Hobbes's state of nature, he is clear that there is no possibility of trust between us. Promises are always empty in the state of nature because humans are "wolf onto each other."²⁴ This idea communicates (or hides from view) a deep tension in Hobbesian thought. It is unclear if he is signaling that we are at once totally transparent (we know how we think so we would never trust others as they may think like us) or totally opaque (we have no way to access the minds of others). On the latter reading, we are trapped in our little worlds, with no clear road out. On the former, we know that no one, including ourselves, can be trusted. Both paths are dark, as trust is unavailable. Both avenues lead to war.

The grim picture of the human condition comes with one bright spot. We are all endowed with "*Reason*," and it is the faculty of reason that allows us to see that pathway to peace. Recall that the faculty of reason, as the ancient Greeks understood it, allows individuals to take control of their appetites, access the idea of justice, and participate in dialogue.²⁵ Internal transcendence – overcoming what they considered slavery to our animalistic appetites – is possible, at least to a degree. For Hobbes, this is no longer a possibility. Reason tells us that we must generate an external threat in order to keep our appetites in check.²⁶ This is not a small shift in thinking, rather, it renders the kind of moral education the Greeks envisioned impossible, leaving only one possibility: an education about means. That is, technical education becomes the only kind of education that is possible.²⁷ It is not surprising to find that this is precisely the kind of education increasingly prioritized by the modern liberal state, rather ironically, at the expense of the liberal arts.²⁸ Missing in Hobbes's story is culture, family, history, beauty, and the arts more generally.²⁹ Their absence is intentional, given that Hobbes is prioritizing his account of reason over historical inheritance: he deems the latter to be arbitrary and, hence, disposable.³⁰ Power, not education, becomes the dominant force for social control.

²³ Hobbes, *Leviathan*, xiii [3]

²⁴ xx

²⁵ Aristotle, *Nicomachean Ethics*, chapter 1.

²⁶ Hobbes, *Leviathan* xiv [4]

²⁷ See Deneen's discussion of the rise of technical education under liberalism (and capitalism). See *WLF*, 111.

²⁸ See Deneen, *WLF*, 112.

²⁹ Culture enters after the state is created, but it is treated as a welcome by-product, but it is not treated as central. See *Leviathan*

xiii [9]. Also see Deneen, *WLF*, 87.

³⁰ Ross Harrison?

Power is, of course, what defines Hobbes's sovereign. The sovereign has no other distinguishing qualities – he just happens to have an army. Expertise is not needed; nor is it available.³¹ Since we are all indistinguishable in a state of nature, anyone can be king. This means that the choice to submit to a ruler is reasonable, but the choice of ruler is arbitrary. In the state of nature, we do not give the sword to he who is most courageous, wise, or selfless. We give the sword to anyone, given that we are all the same. While we are conceptualized as choosing selves, notice that, for Hobbes, the path worthy of choice is pre-determined.³² The choice to give up our rights to all things is defined as a good one precisely because the only alternative on offer is so repellent.

It is also this collective act of will that legitimizes state censorship. Hobbes is clear that the subject, because he consented to be ruled by the sovereign, “is author of all the sovereign doth.”³³ Since the individual subject is the author of the sovereign's words and actions, he cannot complain about the sovereign's decisions; because the subject consented to be ruled, the subject “ought not to accuse any man but himself.”³⁴ In short, the subject must censor himself. Significantly, while the sovereign is meant to exert great power, this is a quiet concession that the state is remarkably fragile. The power of the sword is not enough to keep the peace. Words must also be spoken in unison, at least when the target of speech is the ruler himself. Notice that implicit in his view is the idea that individuals will have their own views that diverge from those of the state – they simply cannot say publicly what they think privately. The divide between public and private, which is central to liberal thought, is found here in its infancy.

For Hobbes, the act of near-complete submission to authority is also an act of power: we create the state by choosing it and, when we make this choice, we simultaneously submit to our own creation. Rather remarkably, individual dignity (to the extent that a Hobbesian agent can partake in it) remains even in the face of near-complete submission to state power. Of course, this theme – dignity through submission – is familiar. Religious believers are told to submit wholly to God, and then they will retain (or gain) their dignity. Now Hobbes transforms the sovereign into the new God in the hopes that everyone can secure earthly goods. It is becoming apparent that the Hobbesian self has two extreme sides that do not co-exist with ease: the self cannot help but pursue the goods she wants (she is entirely beholden to her appetites); but she can, with the help of her reason (and with the help of other selves), construct the state to which she then submits herself, almost completely. The individual is both near-slave and creator. Roles once played by humans and God are now combined within the isolated human agent. Earthly society becomes the endpoint – an endpoint that is inadvertently idealized as a result. In Michael Oakeshott's words, “[t]his alleged apostle of absolutism would, more than others, appears to be in danger of making civil association a hell by

³¹ The decline of expertise in today's society can, in part, be attributed to the realization of liberal assumptions. This point will be expanded on in the longer version of this paper.

³² This echoes Deneen's point: liberalism prizes choice, but leaves us with very few choices. See *WLF* xx.

³³ Hobbes, *Leviathan*, xviii [6]. Of course, censorship may turn out to be legitimate, but unnecessary.

³⁴ *Ibid.*

conceiving it as a heaven.”³⁵

Hobbes has laid the groundwork for a conception of heaven on earth, which, in the hands of liberal theory after Hobbes, takes the shape of the possibility of endless human progress. The shift becomes more comprehensible when we explore another aspect of Hobbes’s thought: the institution of contract law. The point is that the conception of the self at issue is not only the product of philosophical thought; it comes into being through the vehicle of contract law.

2. Hobbes, Contract, and the Capitalist Self

According to Hobbes, the second reason that individuals in the state of nature are moved to submit to the sovereign is that only then will they be able to enjoy a commodious living.³⁶ They will be able to keep their property, to which everyone had a right in the state of nature (and since everyone had a right to it, even to each other’s bodies, no one had any rights). Subjects would also be able to make, and potentially keep, promises, which is essential for the realization of private property, and for collective progress. Justice, in *Leviathan*, is famously defined in juridical terms: an act of injustice involves breaking of contracts and is punishable. It is precisely because breaking promises is punishable, that the possibility of a promise – a contract – comes into being. Hobbes is clear that the subject has a duty “not to make void that voluntary act of his own, and that such hindrance is *Injustice ...*”³⁷ Justice – the standard that is thought to stand outside of human creation – only comes into existence with the creation of the state.³⁸ But the standard of justice is not wholly contingent on the will of the Sovereign. Keeping one’s contracts is not a requirement that the sovereign can decide to institute; it is the *raison d’être* for the existence of the state. In other words, the requirement to keep one’s contracts is *not* the mere product of positive law.

While the creation of the state, through the mechanism of a social contract, is given a lot of attention, there is credence to the thought that contract as a legal institution (rather than as a social compact) may very well be the centerpiece of the state. After all, Hobbes admits that most commonwealths are formed as a result of acquisition (conquest), not through actual consent.³⁹ While the will of the individual is used hypothetically to create the state, in the case of contract law, the actual choices of individuals are at the center of the practice. Hobbes introduces other propositions that are independent of the will of the sovereign. He insists, for instance, that the innocent should not be punished.⁴⁰ Not only is this a concession that a moral principle must come from outside of the system, but this particular proposition works to ensure that citizens will have as much incentive as possible to keep their contracts, and more generally, to keep the peace. The idea of the self at the

³⁵ Michael Oakeshott, *Rationalism in Politics and Other Essays* (Indianapolis: Liberty Fund, 1991), p. 293. Oakeshott, is, of course, referring to Hobbes.

³⁶ *Ibid.*, xiii [14].

³⁷ *Ibid.*, xiv [7] (*italics original*; footnote omitted).

³⁸ *Ibid.*, xiii [13].

³⁹ *Ibid.*, xvii[15].

⁴⁰ *Ibid.*, (find)

foundation of both liberalism and capitalism are united in the foundations of Hobbesian thought. This is not a coincidence.

Evgeny Pashukanis, in his reflections on capitalism, offers a plausible explanation for why this might be so – an explanation that amounts to a reversal of liberal doctrine. Pashukanis’s key insight is that the institution of contract law, and in particular the need for consistency it requires, generates the ideal of the rule of law, precedent, and the ideal of neutral authority. In other words, the claim is that liberal ideals are not generated by the liberal state; rather contract law is itself a source of these ideals. If he is right, this reversal has implications for the nature of the ideals themselves.

Nigel Simmonds, in “Pashukanis and Liberal Jurisprudence” explains how these quintessentially liberal ideas take hold during the transition from a feudal society to a market society. For Pashukanis, “the state is a secondary phenomenon, derivative in nature from the legal and material framework of civil society.”⁴¹ Simmonds offers a fulsome explanation:

The rights exercised by feudal lords were not thought of as a matter of public authority, in a sense which could be contrasted with the notion of private rights. But when lords began to guarantee the peace and good order of markets and fairs (as a source of revenue) the feudal authority necessarily took on a public nature. This is presumably because the “will” of the feudal lord appeared not as involved in the transactions of the market, but as the general guarantor of the rules of the market. The conception of the abstract legal subject, and of law as a body of general norms, implies in turn the notion of a norm-creating authority. The operation of the market requires the guaranteed enforcement of regular standards. But if the enforcement of such standards appeared as the private will of an individual, this would contradict the idea of equal rights that is an integral part of the legal form.⁴²

The ideal of neutral authority, which is central to liberal thought, is parasitic on the idea of contract. Peaceful relations during this transition were dependent on the ability of the feudal lord to treat everyone fairly by applying a consistent set of norms when adjudicating disputes. And of course, in so doing, the feudal lords were able to maintain their grip on power (so their position was not “neutral” in the full-blooded sense of the term.) The Hobbesian goods of peace and order are connected, inextricably, to the burgeoning market.⁴³

This shift in economic life also brings about a shift in the very idea of rights, which is consonant with the Hobbesian (and the liberal) vision. In the feudal world order, rights were linked to the specific person and his place in the hierarchy. Feudalism was understood to be a divinely ordained order, so the idea of unequal rights appeared as the natural ordering of things. But, once

⁴¹ Simmonds, “Pashukanis and Liberal Jurisprudence,” 143.

⁴² Ibid., 143-44 (footnote omitted).

⁴³ Also See C.B. MacPherson xx

the market place emerges, the idea of equal rights takes hold. It is not a coincidence that the idea of equal rights and a capitalist economy have the same intellectual underpinnings. Money, after all, is the means by which heterogeneous things can be compared. Locke understood the centrality of money for the viability of his account: without such a means, neither the idea of equal rights nor liberalism would be possible.⁴⁴

The key point is that equality is now *presupposed*, and the persistence of inequality is now that very thing that stands in need of an explanation. Simmonds explains that the “actual inequality of concrete rights must be explained at the level of principle by reference to willed transactions entered into by the legal subject.”⁴⁵ The source of inequality, on this view, traces back to individual decisions rooted in contract: *we* are responsible for taking ourselves away from the state of equality. The familiar neo-liberal narrative of self-help springs from this paradigm. But, crucially, we can see that this paradigm rests on the presumption of equality (alongside a host of other assumptions). Once we recall that this presumption is difficult to establish even in Hobbes’s imagined world, it is hardly an assumption that could ever accurately capture relations in our world. The problem that Pashukanis’s spies, and Simmonds corroborates, is that “[o]utside contract, the very concepts of subject and will exist only as lifeless abstractions in the legal sense.”⁴⁶

How did this lifeless abstraction become so central to our idea of ourselves? How did the condition of equality, which is presented as a dystopian nightmare in *Leviathan*, become an unvarnished ideal in modern liberal societies? The answers to these questions, I suspect, have something to do with a key element of the conception of the self offered to us by Locke. Locke takes the emptiness of this Hobbesian/capitalist self, and transforms it into a platform upon which human potentiality can spring. The human mind, Locke insists, is a *tabula rasa*.⁴⁷ We are blank slates that, through our own acts of will, shape and create the world and ourselves. In Locke’s hands, we do not have a dead abstraction, but a point of entry into our creative capacities. As Nelson Lund remarks, Locke insists that we can use our labor to free us from “the shackles of the mechanical laws of nature.”⁴⁸ We can become like gods, creating our world, and ourselves, through our own acts of will.

The Lockean conception of the self displaces Hobbes’s dark, limited conception of the human self with a vision of the individual’s boundless potential. The human capacity for godlike behavior is no longer constrained to a single creative act, as it was in *Leviathan*. Now the forces of transformation are unleashed onto nature in the name of progress. But, crucially, Locke has not resolved the tensions that riddle Hobbes’s account. He does not, for instance, offer a convincing

⁴⁴ Ajzenstat, 322.

⁴⁵ Simmonds, 143.

⁴⁶ Simmonds provides this quotation at page 143. The quotation is from “The General Theory of Law and Marxism”, First Edition (1924), translated by Peter B. Maggs in P. Beirne and R. Sharlet, Pashukanis: *Selected Writings on Marxism and Law* (1980), 82.

⁴⁷ John Locke, *An Essay Concerning Human Understanding*, Book II, chapter 1-2.

⁴⁸ xxx

case as to why a theory of human nature should look to statistical regularities instead of ideal potentialities. For instance, the claim that everyone, as a matter of fact, does not fear death above all else has yet to be credibly defended.⁴⁹ In short, Locke does not solve the problems found in Hobbes's vision of the self; he has simply repackaged them in flattering form.

While Hobbes offers us the philosophical moorings for the liberal self, Locke's account helps to explain why we swallowed it whole. Pashukanis offers an explanation of the moment that this idea of the self enters into the imagination of members of society – an account that is about economic change and the emergence of liberal ideals within a burgeoning capitalist market. Deneen, as we shall see, explains how the idea of the liberal self, once internalized by vast swaths of the population, has helped to transform society, and then help to legitimize this transformation. The liberal worldview, and the idea of the self that accompanies it, impacts our interactions with each other and our environment, thereby shaping ourselves and our world, but not necessarily for the better. While this is not a story I can defend in full in this paper, I hope to add another puzzle piece to this already complex story: I will argue that the idea of the self at play is not an abstract chooser, but an *embodied self*. This, I will argue, explains the rise of identity politics and the new call for censorship.

3. Liberalism, Choice, and Social Transformation

The liberal vision of the self has been emancipatory in many ways. This way of thinking helped to ensure that social roles and expectations ceased to hold the same grip on the collective imagination, freeing women, for instance, to pursue careers formerly reserved for men. Social mobility increased and the prospect of entering a profession you were not born into, or rising out of the class you were born into, became live possibilities. The new modes of being in the world reinforced the new modes of thinking and *vice versa*. These possibilities were not only the product of a liberal experiment, but also of shifting socio-economic realities. The point is not that the social imaginary does all of the work; rather, the point is that at any given time, the assumptions that comprise a particular worldview can make certain positions seem obvious. The gains of the liberal worldview are multifaceted, but this is only part of the story of our liberal inheritance.

Liberalism does not simply tell us that the bonds between individuals and their various communities are not central to the self; it loosens the social bonds that had previously defined us. Once liberty is defined as bare choice, there are implications, as Deneen explains:

Liberty, so defined, requires in the first instance liberation from all forms of associations and relationships – from the family, church, and schools to the village and neighborhood and the

⁴⁹ See Nelson Lund, "Rousseau and Direct Democracy," *Journal of Contemporary Legal Issues* Vol. 13, No. 2 2003-4. Pages 472-474.

community broadly defined – that exert strong control over behavior largely through informal and habituated expectations and norms.⁵⁰

Once we become “choosing selves,” the objects of our choices are seen as contingent features that we may or may not select as we pursue our personal visions of the good life. Individuals may still choose to participate in communities, but there is nothing about these communities that makes them inherently choice-worthy. Churches, neighborhoods, schools, and even the institution of the family, are viewed as objects of our personal expression rather than essential components of our lives. They become the mere means used in the pursuit of an individual’s chosen ends. Insofar as we treat people, and affiliations, as a means to the realization of often-transient personal ends, has a transformative effect on these relationships, and ourselves.⁵¹ Deneen suggests that the fruits of this particular social experiment are isolation and loneliness.⁵² Alienation, not liberation, may very well be one of liberalism’s lasting legacies.

To be clear, I am not suggesting a return to the past, or that such a return is possible.⁵³ Helen Andrews is surely correct to argue that the fact that women have entered the workforce *en masse* has significantly contributed breakdown of communal bonds:

Almost everything that once made American communities cohesive, from child-minding to neighborly casseroles to driving Widow Jones to the grocery store, was powered by the labor of stay-at-home wives, for which they were not paid but for which they will surely be blessed hereafter.⁵⁴

It takes a certain kind of work to create and maintain communal bonds; it is not work that is currently undertaken. So while a return to the past is not possible, it is worthy noting that the inability to articulate a clear vision of what ought to come next should not interfere with our assessment of the status quo (and Deneen’s diagnosis is, in my view, on point).

Deneen rightly maintains that one of the great ironies that the idea of liberty, once defined as the emancipation from community bonds and social norms, is often accompanied by the rise of the state.⁵⁵ The direct relationship between the citizen and the state imagined by Hobbes becomes the inadvertent endpoint of the process of “emancipation.” But Deneen is right to wonder whether the rise of the state brings liberty or its opposite.⁵⁶ This will turn on one’s definition of liberty. Nevertheless, Deneen is correct to argue that, when social norms wane in respect to both their perceived normative authority and their influence, “the need for impositions of positive law to

⁵⁰ Deneen, “Unsustainable Liberalism,” *First Things*: <https://www.firstthings.com/article/2012/08/unsustainable-liberalism>

⁵¹ Deneen, *WLF* 32-33.

⁵² Deneen, *WLF*, xx

⁵³ I endorse the thin version of political liberalism discussed in the closing section.

⁵⁴ <https://www.firstthings.com/article/2017/01/tocqueville-in-the-gutter>

⁵⁵ Deneen, *WLF*, xx. See also Robert Nisbet’s *The Quest for Community*.

⁵⁶ Deneen, *WLF*, 49.

regulate behavior grows.”⁵⁷ The idea of liberalism largely hides the encroachment of the state from view. The rhetoric of rights tends to make these regulations seem like unvarnished goods, but it is not clear that the individual is the beneficiary. The picture can prove hard to dislodge, in part because neither history nor philosophy (or any of the arts) are given priority as disciplines worthy of study from the perspective of the liberal worldview.⁵⁸ Tyrants ban books; the ideology of liberalism devalues them. Power preserves itself unseen.

4. Censorship and the “Embodied Liberal Self”

I agree with Deneen that liberalism has loosened the ties to communities, reshaping society and shaping our imaginations, particularly our self-understanding. And I agree with him that Hobbes, and those who relied on his conception of the self, have been remarkably influential. But now we must ask: do we really think of ourselves as abstract agents who are comprised of a “will” and nothing else? That is, do we think of ourselves in terms of an abstract universal “self,” emptied of all content? I suggest that the answer to this question is “no.” It is impossible to think of ourselves, and each other, as mere abstractions. But this does not mean that liberalism, and the idea of the liberal self, has not transformed our conception of ourselves. It is informative to ask what is left of the self once we exclude all of the contingent social connections from our conception of the self. Notice, that this question presupposes that the liberal self lives within the contours carved out by Hobbes, but that it also presupposes that we do not see the self precisely as he describes.

What is left is not an empty abstract self. Rather, what remains is a set of biological and psychological “givens.” Race, gender, and sexual orientation are all features of the self that are not chosen, even if one can choose to change any of the above.⁵⁹ All characteristics that cannot be altered, or are alterable with remarkable effort, fit within the conception of the embodied self. Only the set of what I will call “givens” endure once we cease to treat religious and communal affiliations as central components of personal identity. The societal connections that once defined us are viewed as merely *contingent* components of our identities, while biological and psychological features are now viewed as the set of *necessary*, foundational elements. They are viewed as necessary precisely because they are inescapable: we cannot choose to discard these categories. These features are now viewed as the “real” self. They have become the defining components of individual identity as such.

In short, the liberal choosing self is not an abstract self, but an *embodied* self. Once we are left only with these features, it is easy to see how these non-optional “givens” would be thought of as the subjective components that comprise the lens through which each person sees the world: we necessarily see the world through our own personal lens. We cannot speak for others who are different from us. Rather, we must speak only for those who see the world through a similar filter.

⁵⁷ Deneen, “Unsustainable Liberalism,” *First Things*: <https://www.firstthings.com/article/2012/08/unsustainable-liberalism>

⁵⁸ Deneen, *WLF*, chapter five.

⁵⁹ “Trans” identity is, of course, included here. The key is that the self does not include things that, from the perspective of liberal theory, are treated as “mere interests.”

The assumption seems to be that there is no common discourse that we can all turn to in order to communicate with those who are different from us. If this is so, then it is also assumed that we cannot speak *to* those who are different. It is no surprising that political violence is on the rise and attempts at dialogue and compromise are in decline.

My point, and I suspect Brookes's point as well, is that the possibility of reasoning with each other remains, even if those in power have changed the nature of the political game.⁶⁰ Hence, once we see the world from this perspective, we can see why Brooks is told that he can only speak for white men, and why his belief that he can do otherwise is a category mistake. Insofar as one can only see the world through the prism of a set of givens, any attempt to speak for the "other" is considered delusional and dangerous, especially if the speaker is one who sits atop the hierarchy of power. Speech of this kind can easily lead the speaker to commit the sin of "cultural appropriation." The very act of speaking on behalf of another often renders one guilty of this transgression, regardless of the intention of the speaker. In legal terms, it is a strict liability offence. Only "authentic" speech is permissible, and, again, authenticity is defined by an individual's set of givens. Transcendence, even partial transcendence, is impossible. We are perpetually locked into our individual subjective perspectives.⁶¹ The echoes of the Hobbesian self can now be identified. If we think of ourselves in these terms, we become wolf onto each other.

It is also apparent why Brooks is left to search for an entrance into this particular debate. The self is presented to us as a bare set of facts. How does anyone argue against the existence of a person's biological and psychological make-up? These seem to be incontrovertible facts, the denial of which seems foolish. But this move is too quick. The answer to this question is that we all must recognize that *an understanding of the self as a set of facts is not itself a fact*. The *embodied self* is a philosophical construct that is as contestable as any other idea of the self. Of course, it does not follow that all conceptions of the self are of equal worth; it simply means that we are all in the world of theory, not fact. One of the consequences of this point is important to recognize for the debate about censorship: the impulse to censor flows from a contestable set of philosophical propositions and not a mere set of facts. **The new liberal censor does not have the moral high ground. It does not follow, of course, that we can occupy the "universal" standpoint where we once again become disembodied selves.**⁶² **This means that identity still matters, and in some instances, it matters a great deal; it is simply far from clear that it matters in precisely the way many currently presume.**

⁶⁰ For a discussion of the problems that inequality creates in a democracy see Margaret Martin, "Persuade or Obey: *Crito* and the preconditions for Justice," *Contemporary Perspectives on Legal Obligation: First Edition*, ed. Stefano Bertea (Routledge, 2020).

⁶¹ Once all we have is subjectivity, even the traits I have identified are hard to hold onto: what distinguishes those who are part of a minority group from those who feel that they are a part? We turn either to blood or to pure subjective experience. The former turns into a search for biological purity as a marker of membership in a given community; the latter erases all reality of the distinctions that currently form the lens of identity politics.

⁶² For an illuminating discussion of race and the economy, see Philip Rosco's Exploitation for Profit: How the Shadow for Slavery Still Hangs Over Global Finance in *The Atlantic*: <https://thewire.in/world/atlantic-slave-trade-global-finance>

Brooks, in my view, correctly diagnoses one of the main sources of the problem with identity politics, namely, its commitment to moral relativism: there is no truth, only subjective “truths.” Once moral relativism takes hold, Damir Marusic explains, we are left with “competing ‘narratives’” that dominate the others in “an endless zero-sum competition that leaves no room for meaningful political compromise.”⁶³ We end up with a version of Hobbes’s state of nature where we seek “power after power” until death”.⁶⁴ Recall that, for Hobbes, the faculty of reason could help us bring about peace through the abandonment of our rights. Reason, on this account, neither guides dialogue nor facilitates compromise. This limited conception of reason is implicated in the modern battle for political dominance.⁶⁵

Moreover, if we are to take the new liberal’s commitment to moral relativism seriously, then any talk of an identifiable authentic self is barely intelligible. If the relativist is right, it becomes impossible to cross the boundary between selves to see if there is anything beyond radical subjectivity. In other words, the consistent relativist must concede that all she can say is that it is *her subjective belief that truth is relative*. The relativist famously, but problematically, undercuts her own claim when she declares, “it is true that there is no truth outside of our subjective experience” or more generally, “it is true that there is no truth.” The new liberal is doing precisely what she prohibits others from doing: she is speaking for everyone when she censors her political opponent. And in addition, she expects everyone to behave in a manner that accords with her beliefs. The deep tension within the mindset of the new liberal is one clue that her foundation is far less stable than she believes it to be.

J. S. Mill (rightly) argues that the impulse to censor always betrays an over-confidence in one’s own views: “For people to refuse a hearing to an opinion, because they are sure that it is false, is to assume that *their* certainty is the same thing as *absolute* certainty.”⁶⁶ While Mill may have placed too much faith in the marketplace of ideas,⁶⁷ the new liberal has placed too much faith in her belief that censorship will realize the ends she cherishes. Mill assumes that we are searching for truth; the new liberal believes she has found it.

If we explore the conception of the liberal self, the felt need to censor becomes all the more comprehensible. From the new liberal’s perspective, the problem with speech is not simply that we

⁶³ Damir Marusic XX

⁶⁴ Hobbes, *Leviathan*, xi [2].

⁶⁵ It is important to recognize that those at the top of the hierarchy of power are not interested in compromise, which also transforms the nature of politics. See International Relations, Interview with Gwilym David Blunt: https://www.e-ir.info/2020/08/27/interview-gwilym-david-blunt/?fbclid=IwAR0GUGS8ydF_EYOLC4Q7bOE0j4z4_LgGgx0ctwufQzAbXTk3XTx42KxAtk.

“The biggest change in my thinking came from realizing that many of these problems are systemic and many agents are highly invested in injustice. Indifference to climate change, for example, is built into our current version of capitalism and some very powerful actors will resist any attempt to mitigate its worst effects because they reap tremendous profits from the way things are. These are not agents who are open to persuasion”

⁶⁶ J.S Mill, *On Liberty*, chapter 2.

⁶⁷ For a powerful critique of J.S Mill’s position, see Robert Paul Wolf, *The Poverty of Liberalism* (Beacon Press, Toronto: 1968).

cannot speak *for the other*. Speech directed at the “other” is double-edged: at the very moment it brings about pain, it simultaneously deprives the victim of partaking in happiness through the (potential) infliction of pain. “Sticks and stones will break my bones, but names will never hurt me” is a saying that rings true only if one accepts the older vision of the self. According to this older view, education is required to ensure that specific character traits are developed in order to protect the self from the pain of speech. Pain that is caused by speech is treated as superficial pain and is best ignored, even if it is deeply hurtful.⁶⁸ The self is primarily comprised of a host of character traits and capacities. On this alternative, older, view of the self, speech will not necessarily be able to access the core self. Some people will be more emotionally impacted by speech than others simply because some people will develop greater protections than others.

Once this older, more complex, vision of the self fades from view, the power of words seems sharper, and it may, in fact, be sharper. The character traits in question must be actively developed if they are to help protect the self from verbal slings and arrows. This can happen accidentally, but success is more likely if the efforts are sustained and intentional. When such efforts are not made, then there is no longer a source of protection within the self. This means that it is possible that speech-acts strike the “self” at its center (or what feels like the center). Since the self is thought of as a bundle of emotions and appetites, emotional blood is inevitably spilled by pointed speech. The new liberal’s interest in protection emotions also explains the emergence of a call for “trigger warnings.” This is a way to protect oneself from predictable emotional pain caused by hearing certain kinds of speech.

The worry about experiencing negative emotions is exacerbated by another loss once the secular liberal worldview eclipsed religion in the public consciousness. As Aizenstat notes, liberalism offers a relatively bare vision of the good life. The void left when religion exits is inevitably going to be filled by content generated by historical circumstances.⁶⁹ The cult of celebrity, social media, and endless consumerism re-enforce the message that pain is to be avoided and pleasure sought. We are bombarded – and we bombard ourselves – with images of people who appear to be living in a constant stream of uninterrupted pleasure. Since pain and suffering are supposed to be avoided, the illusion that they can be avoided is quietly, but tragically, fostered. The upshot is that personal suffering is no longer viewed as a shared fact about the human condition that binds us through time. The sense of shame or failure experienced can lead to further isolation, underscoring Deneen’s worries about the alienating forces of the liberal worldview.⁷⁰ Ironically, liberalism’s idealization of pleasure itself becomes a source of pain.

⁶⁸ The pain, of course, may not be superficial or inconsequential. The point is that this other account of the self sees the self as possessing resources that can be developed in the hopes of ensuring that each person is as well-equipped as possible to face life’s many challenges.

⁶⁹ Aizenstat, 326.

⁷⁰ But the story is more complicated than it may seem. The economic conditions also account for alienation of the self, not simply our individual choices. Small local businesses are rarely stable/permanent, and hence nor are the relationships forged with workers.

The vulnerability of the individual is punctuated when we turn to the third problem with hurtful speech as understood from the perspective of the new liberal. By hurting the feelings of those in disadvantaged groups, negative speech threatens to close off one of the central pathways visible to the committed liberal by which society can be bettered: the possibility of achieving greater social equality. Hurtful speech undermines the individual's sense of self, making it less likely that she will have the self-confidence needed to climb the social rungs and fully participate in our "meritocracy."

Deneen is particularly worried about the shouting down of speakers at Ivy League schools in the name of equality.⁷¹ Two problems with this behaviour can be identified. Deneen rightly notes, is that these acts of censorship often work to preserve, rather than to subvert, the status quo: it can work to re-enforce, rather than over-turn the "self help" narrative that is at the heart of liberal theory. Deneen points us to a version of this story penned by James Stimson, who holds a chair in political science at the University of North Carolina, accounts for the economic decline experienced by those on the lower rungs, as a result of "fear" and a "lack of ambition."⁷² In other words, it's their own fault. Regardless of whether the self-help narrative springs from a place of naive idealism or malice, the narrative remains worrying. It hides the utopian element in liberal thought – that equality is possible if only we all choose it – while promoting the myth that we are all responsible for our own fates. Liberalism preserves inequality in the name of equality with the help of individuals who happily censor themselves, and each other, in its name.

The common objection to the "self help" narrative is that many inequalities are structural: individual choice is one variable that accounts for success, and often it may not be the most significant one.⁷³ While this is, no doubt true, the statement that "inequalities are largely structural" can easily be read as a call to dismantle hierarchy. If this is the vision of equality that is sought, then we can learn from Hobbes, and from history. Michael Lind, with the aid of historian Walter Scheidel, warns that history calls attention to the likely implications of such efforts:

According to Walter Scheidel in *The Great Leveler: Violence and the History of Inequality from the Stone Age to the Twenty-First Century* (Princeton University Press, 2017), large-scale declines in social inequality have historically been associated with mass-mobilization warfare, transformative revolutions, state collapse, and catastrophic plagues. Yet, as we have seen in the case of Communism, even transformative revolutions can be followed by the conversion of revolutionaries into aristocrats. So perhaps we are left with only three horsemen of

⁷¹ Deneen, "Unsustainable Liberalism," *First Things*: <https://www.firstthings.com/article/2012/08/unsustainable-liberalism>

⁷² Ibid.

⁷³ To be clear, I do not wish to set aside this concern. I think it is real and important. My point is that we do not need identity politics in order to identify gross injustices that such as systemic racism or sexism. My worry is that censorship of the kind I am discussion will not ultimately help to achieve the aims. Nor am I ruling out the possibility that censorship is warranted in a given case.

apocalyptic egalitarianism: war, state collapse, and pestilence.⁷⁴

The dismantling of hierarchy will lead us towards, and not away from, Hobbes's dark vision of life in the state of nature. Perhaps the best we can do is to make existing hierarchies as fair and as bearable as possible, which was once a principal task of political philosophy of old.⁷⁵ According to Plato, this is achieved by working to ensure that power serves the masses and not only the material self-interests of the powerful.⁷⁶ If Plato is right, then a focus on the politics of identity can focus our collective energies on speech acts and not the deeper problems that must be addressed if change is going to be realized.⁷⁷ In sum, my point is simply that it is unclear whether censorship is the right means to achieve the end sought in any particular case. And the end – equality – must be given careful thought, as it is a notoriously difficult concept.⁷⁸

The new liberal's worldview amounts to a reversal of Hobbes's position, not a wholesale rejection of it. The moral vision of the liberal state is the mirror image of *Leviathan*. Once the individual, and not the sovereign, is placed at the center of the political system, the individual becomes the censor. In *Leviathan*, censorship was a tool used by the sovereign used to keep the peace, whilst signaling the fragility of the new world order. Censorship is now used to protect the emotions of the potentially fragile liberal self. For Hobbes, peace requires the help of an external power: the sovereign keeps the peace by ensuring we live in the shadow of his sword. Inner peace needs the help of an external force: the constant censor. Recall that, for Hobbes, equality is presupposed as a starting point. The faculty of reason does not facilitate self-control or dialogue. Reason plays one role: it leads us towards peace. For the new liberal, reason now plays the role of telling us how to bring about a certain kind of *inner* peace in pursuit of equality, which is now the imagined (utopian) end, not the imagined (dystopian) beginning. Deneen might be right that liberalism (and indeed capitalism) takes us some distance towards the realization of a Hobbesian vision of weak isolated individuals.⁷⁹ What was the dystopian starting point has inadvertently become the idealized endpoint of liberalism, at its own peril. Thus far I have offered a conception of the liberal self, now I hope to account, at least in part, for its rise in popularity.

5. Illiberal Liberalism: How Did We Get Here?

Historically, as Judith Shklar argues, liberalism was put into practice in order to ensure that individuals could have freedom of conscience and freedom of religion: "To insist that individuals

⁷⁴ Michael Lind, "Classless Utopia versus Class compromise," *American Affairs*, Summer 2018, vol. II. <https://americanaffairsjournal.org/2018/05/classless-utopia-versus-class-compromise/>

⁷⁵ See Patrick Deneen, "The Ignoble Lie," *First Things*: <https://www.firstthings.com/article/2018/04/the-ignoble-lie>.

⁷⁶ Plato's ideal city in thought, which is the main topic of the *Republic*, offers such a vision.

⁷⁷ Inderjeet Parmar is likely right: a focus on identity politics on both the right and the left takes the focus off the possibility of radical re-distribution. Parmar makes this point in reference to American politics:

https://soundcloud.com/user-865310608-677857361/episode-2-race-and-american-politics?fbclid=IwAR37oYNIwuoT276nJfRE2AegkSnf7Wh-3_2GtFMt2SnTAnpUtmpulp4fITo

⁷⁸ Inequality remains a serious problem: see, for instance, Ganesh Sitaraman, *The Crisis of the Middle-Class Constitution: Why Economic Inequality Threatens Our Republic* (New York: Knopf, 2017).

⁷⁹ See Deneen, *WLF*, xx

must make their own choices about the most important matter in their lives – their religious belief—without interference from public authority, is to go very far indeed toward liberalism.”⁸⁰ Liberalism also requires institutions that enable this possibility to be realized.⁸¹ This version of liberalism, which I will call “political liberalism,” allows for the possibility that people with diverse religious and moral beliefs can live together in peace. The impetus to commit to political liberalism is clear: each group wants to be free from the imposition of a state-imposed religion. The price of this freedom requires one to abandon the hope that the state would reflect one’s own religious beliefs. It also requires us to tolerate people with very different, possibly deeply offensive, views.⁸² This is because the state aims to be neutral between visions of the good life, to the extent that it is able. Differences are tolerated, and compromises are reached, all for the sake of peaceful cohabitation. Shklar also argues, correctly in my view, that liberalism requires a distinction between the public sphere and the private sphere⁸³ – it is this distinction that is currently under threat by the new moralized version of the doctrine. And again, the source of the threat is liberalism itself.⁸⁴

When the shift is made from political to moralized liberalism, the liberal values of tolerance, diversity, and equality appear to have remained the same, but, in fact, they have undergone a profound transformation. Political liberalism begins with the fact of diversity. Diversity is not an endpoint, but a starting point (and diversity here signals diversity in belief, not just diversity in physical appearance). The political liberal is supposed to both tolerate and respect different belief systems. She is supposed to see others as “equals” when donning the cap of citizen, but in her private life, her views about equality may or may not align with the political posture she adopts as a citizen. By both tolerating difference, and by respecting her fellow citizens as equal participants in the political project, she is able to work to bring about compromises that keep peace. Compromises are often hard-earned and tenuous. The consensus that emerges from the political process is not an end in itself; rather, it is a means to peaceful cohabitation. Practices of civility are useful to cultivate habits of interaction that are undergirded (ideally) by a posture of mutual respect.⁸⁵

Conversely, those committed to *moralized* liberalism tell us that everyone *is* equal and there is an insistence on the part of believers that everyone *must* believe this as a first-order moral commitment (and not simply as a pragmatic political doctrine). While no doubt, this vision of society is a moral ideal, liberalism was supposed to tolerate a host of moral ideals. The point, after-

⁸⁰ Judith Shklar, “The Liberalism of Fear” in *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum (Cambridge: Harvard University Press, 1989), 23.

⁸¹ *Ibid.*

⁸² Tolerance is not a strait-forward ideal. See Herbert Marcuse, “Repressive Tolerance” in Robert Paul Wolff, Barrington Moore, Jr., and Herbert Marcuse, *A Critique of Pure Tolerance* (Boston: Beacon Press, 1969), pp. 95- 137.

⁸³ *Ibid.*, 24. In the same discussion Shklar rejects Hobbes as the founder of liberalism.

⁸⁴ It is important to remember that this older vision of liberalism wasn’t necessarily realized in any given society. Rather, it is in the name of liberty and liberalism that the emergence of something akin to values that are antithetical to the core tenants of the project.

⁸⁵ For an illuminating discussion of the practice of civility, See N. E. Simmonds “Constitutional Rights, Civility and Artifice” (2019) 78 *Cambridge Law Journal* 175.

all, was to resist imposing your vision of moral rightness on others. Tolerance, from the perspective of moralized liberalism, requires that *all* citizens are committed to moral equality as a first-order moral principle. This is a moral claim about “right belief” that transcends the public/private divide; it is not simply a claim about right action in the public sphere. This understanding of “tolerance,” leaves little room for religion, at least insofar as the religions in question fail to endorse this vision of equality and personal identity.

Of course proponents of this moralized account of liberalism quickly find themselves in the grip of hypocrisy. The new liberal, who insists that everyone share her view in the name of tolerance, is blind to her own intolerance. In addition, consensus is no longer thought of as the tenuous output of a difficult, ongoing, political process. Consensus is now thought of as the ideal endpoint of an enlightened secular moral community: everyone is expected to affirm the same list of moral absolutes and as consensus grows a sense of moral progress is felt by adherents. Debate, dialogue and compromise are of minimal use for the new liberal. How did liberalism transform into a doctrine that stands against everything it once stood for? Again, the answer can be found in the nature of political liberalism itself.

One difficulty with political liberalism is that it expects a lot from citizens. According to Ajzenstat, the preservation of this system depends on the ability of citizens to keep their moral commitments separate from their political commitments. The first problem is that the two sets of commitments – the moral and the political – frequently come into conflict. The citizen has to work hard to preserve a space for each:

Liberalism ... nurtures a form of politically necessary schizophrenia in which those who recognize positive moral absolutes must give them a higher status than the principle of compromise from a moral point of view while giving them a lower status from a political point of view.⁸⁶

If one is a religious believer, for instance, one is not expected to compromise on the principles of the faith when it comes to one’s moral beliefs. However, as a citizen, such compromises are demanded. Consequently, one must be ready to compromise on issues that, from the moral perspective, demand absolute obedience. One must bow down to two gods, so to speak, and every citizen must constantly be aware of the need to do so. Living permanently with a schism, which is what political liberalism demands, is difficult. Notice that the public/private divide that is at the centre of the political liberalism runs through each individual as well. It is not surprising that the committed liberal will struggle to occupy this tenuous, tension-filled, space.

As Susan James persuasively argues, it is not only a complex intellectual space that the liberal must continually navigate, but also a complex emotional space. The political liberal needs a notable

⁸⁶ Samuel Ajzenstat, “Liberalism, Compromise and Moral Absolutes,” *Windsor Yearbook of Access to Justice*, volume 2 (1982), 325.

degree of self control given that “individuals in these societies are expected to live with others whose attitudes or behaviour they find alarming, offensive or abhorrent, and to refrain from expressing their emotions in ways that are at odds with norms of equality and freedom.”⁸⁷ This kind of control, which is rarely discussed by liberal theorists, can only be achieved with effort – with a specific kind of education.⁸⁸ In sum, it is difficult to cultivate and maintain the necessary emotional and intellectual disposition that is a precondition for the maintenance of political liberalism; it is far easier to cling to a single set of views and attempt to realize this vision of the good life in the public sphere. Identity politics brings us the second vision of politics, but it is far from clear that this is a fruitful approach; nor is it clear that this approach will lead to the outcomes desired by the new liberal.

The intellectual and emotional burden placed on the individual is even harder to shoulder once it is understood that the “neutral” state is not a neutral bystander, but an active player that hinders (rather than helps) the ability of the society to maintain the divide between the public and the private, the moral and the political. Ajzenstat correctly argues that it is hard to hold onto religion in the private sphere, given the pressure exerted by these public values.⁸⁹ Eventually the claims made by the liberal state, which were meant to be *merely* political, begin to compete directly with the first order (religious) moral absolutes.⁹⁰ Not only does the state enter the competition for the hearts and minds of its citizens – promoting secular, liberal values – it simultaneously demotes the place of religion in the public sphere. Recall, that the from perspective of the liberal state, religion is nothing more than a personal preference that is akin to any other preference one might have. Consequently, all religions are forced to enter into a battle of “the survival of the fittest,” echoing, once again, the Hobbesian state of nature. While religion is devalued, secularism is quietly promoted under the pretext of neutrality. The point is not that we should reject the secular state, or even the moral commitments that are currently championed by the left; rather the point is that the impulse to *impose* ones views on others, instead of seeking to convince them that they are wrong, should be resisted.⁹¹

The state has quietly helped to shape the social imaginary and undermined competitors all in the guise of “neutrality.” The liberal was supposed to create a space for private beliefs, but now works to instill its own values. It does this implicitly through the values that adhere in the political system, but it also does so explicitly through the work of government and the courts.⁹² Ajzenstat was

⁸⁷ Susan James, “The Politics of Emotion: Liberalism and Cognitivism,” *Royale Institute of Philosophical Supplements*, vol. 58, May 2006, 235.

⁸⁸ Ironically, it is a religious education which serves this end far better than the education presupposed to be of value according to liberal theory.

⁸⁹ Ajzenstat, 326.

⁹⁰ *Ibid.*, 325.

⁹¹ Ajzenstat himself is a champion of political liberalism: he makes in compelling argument the thin version of the doctrine seems like the best possible political arrangement for those that like living in places that are marked by diversity of view-points and for those who find themselves living in such places.

⁹² See, for instance, the following Supreme Court of Canada decisions: *Chamberlain v. Surrey School District No 36*; *S.L. v. Commission scolaire des Chênes*.

right to predict that education would be a central battleground.⁹³ If the state rears children in its own image, the secular worldview will already be the lens through which more and more citizens view the world. The tyrannical streak of moralized liberalism will no longer be seen or felt.⁹⁴ The growing consensus around liberal values will present itself as a sign of progress. But the realization of this vision of the ideal state comes at a clear cost to liberalism itself. Insofar as liberalism is dependent on a distinction between the public and the private sphere, then moralized liberalism presents an existential threat. The expectation that everyone in the community ought to think the same things, and for this expectation to be actively patrolled by the citizen and the state, remains a hallmark of tyranny.

The social imaginary is not something we singlehandedly control, nevertheless, once we see how it informs public discourse, we can begin to critically evaluate its components. Taylor shows us that we are always living within an imagined space that makes certain things seem possible and others impossible. But he warns us that we should not be satisfied with the products of these “givens.”⁹⁵ In a similar spirit, Ajzenstat cautions that great care must be taken to ensure that the state is not monopolizing the creation of the moral touchstones of daily life. One’s sense of secular enlightenment may be the result of the quiet, but powerful, influence of the liberal state. Insofar as liberalism, in all of its forms, undermines the arts in the name of progress, this inhibits our collective ability to re-imagine the future. We are currently in need of precisely the imaginative possibilities that literature, philosophy, art, and poetry supply. It is not only certain philosophers who hope to awaken curiosity and re-invigorate our imagined spaces; even those working in disciplines prized by liberalism see this need. When asked whether he values the imagination more than knowledge, Albert Einstein’s reply is as unexpected as it is illuminating: “[i]magination is more important than knowledge. Knowledge is limited. Imagination encircles the world.”⁹⁶ Currently, both are under threat. Many seem to have faith that the turn to the subjective will liberate us from old, hierarchical ways of thinking. But it is possible, if not highly probable, that this pathway leads rather quickly towards a dark and divisive form of politics – a form of politics that the modern Western liberal state was supposed to help us overcome.

⁹³ Ajzenstat explains: “Political relativism - supposedly a facilitator of absolute belief - turns into a moral relativism which admits no obligation to respect absolute belief and feels free to undermine it through enlightened public education” (325).

⁹⁴ Ibid.

⁹⁵ Taylor, *Secular Age* XX

⁹⁶ George Sylvester Viereck, 'What Life Means to Einstein', *Saturday Evening Post* (26 Oct 1929), 117. Reprinted in Viereck, *Glimpses of the Great* (1930), 447.