

Aligica, Paul Dragos (Ed.); Brick Murtazashvili, Jennifer (Ed.)

Book

Governing Differences: Social Diversity, Polycentric Political Economy and Modus Vivendi

New thinking in political economy series

Provided in Cooperation with:

Edward Elgar Publishing

Suggested Citation: Aligica, Paul Dragos (Ed.); Brick Murtazashvili, Jennifer (Ed.) (2025) : Governing Differences: Social Diversity, Polycentric Political Economy and Modus Vivendi, New thinking in political economy series, ISBN 978-1-0353-4858-9, Edward Elgar Publishing, Cheltenham, <https://doi.org/10.4337/9781035348589>

This Version is available at:

<https://hdl.handle.net/10419/336663>

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Governing Differences

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Governing Differences

Social Diversity, Polycentric Political Economy
and Modus Vivendi

Edited by

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NEW THINKING IN POLITICAL ECONOMY

 **Edward Elgar**
PUBLISHING

Cheltenham, UK • Northampton, MA, USA

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Published by

Edward Elgar Publishing Limited
The Lypiatts
15 Lansdown Road
Cheltenham
Glos GL50 2JA
UK

Edward Elgar Publishing, Inc.
William Pratt House
9 Dewey Court
Northampton
Massachusetts 01060
USA

Authorised representative in the EU for GPSR queries only: Easy Access System
Europe – Mustamäe tee 50, 10621 Tallinn, Estonia, gpsr.requests@easproject.com

A catalogue record for this book
is available from the British Library

Library of Congress Control Number: 2025933007

This book is available electronically in the **Elgaronline**
Economics subject collection
<https://doi.org/10.4337/9781035348589>

ISBN 978 1 0353 4857 2 (cased)
ISBN 978 1 0353 4858 9 (eBook)

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Acknowledgments

This book emerged from an institutional project that has been ongoing for several years. Several years ago, the Center for Governance and Markets at the University of Pittsburgh initiated a special program to investigate the principles of *modus vivendi* political philosophy and the institutional foundations of political regimes founded on a “live and let live” ethos. Thus, we began to explore possible solutions to our current crisis in governance through an interdisciplinary lens using applied theory. The project has sought not only to analyze, diagnose, and articulate governance solutions but also to contribute to the creation of a global community of scholars and public intellectuals dedicated to these tasks.

Such an ambitious effort wouldn’t have been possible without the generous support of the John Templeton Foundation. By awarding the Center for Governance and Markets a substantial grant (#6701) to explore how deep differences are analyzed and managed, it provided the resources needed to ensure the success of this ambitious project.

In addition to our gratitude to the Foundation, we would also like to thank Amy Proulx, Greg Wolcott, and Jessica Desperes from the Templeton Foundation, who supported our initiative through the multiple stages of the project’s evolution and encouraged our trust in our vision throughout.

This volume is the result of an intensive interdisciplinary team effort that required a lot of coordination. We would like to thank the Institute for Humane Studies at George Mason University for supporting academic events that produced the seeds of the ideas that blossomed into much larger collaboration. We are grateful to Michale Broderik, Jason Cannon, and Emily Chamlee-Wright for their support.

Special gratitude and acknowledgment go to the Mercatus Center at George Mason University. Throughout the project, Mercatus has been a constant source of support and partnership. Many contributors to this volume were, at least in part, connected to the Mercatus Center programs during the last couple of years, and many of the ideas explored in this volume germinated in the context of the Adam Smith and Buchanan programs organized by the F.A. Hayek Program for Advanced Study in Philosophy, Politics, and Economics at the Mercatus Center.

This book also owes greatly to the advice and encouragement we have received over the years from our colleagues at the University of Pittsburgh, the University of Bucharest, and George Mason University. Special thanks to Peter Boettke, Michael Colaresi, Leanor Ealy, Bobbi Herzberg, Kristin Kanthak, Ilia Murtazashvili, Eileen Norcross, Marian Preda, Dan Rothschild, Adam Shear, Virgil Storr, and Marian Zulean. We thank them for their generous feedback, criticism, and encouragement.

We would like to express our sincere gratitude to Luna Kwak, Executive Director of the Center for Governance and Markets. She has been instrumental in advancing the project with her competence, dedication, and professionalism.

A different sort of debt is owed to three people at Edward Elgar: Stephanie Mills, whose interest in and support of the project in the initial stages were crucial, and Imogen Phillips and Jane Bayliss. They supervised the project with professionalism and dedication, easing the progress of the manuscript from submission to publication. We remain responsible for any errors or omissions.

Introduction: modus vivendi and polycentric governance systems

Paul Dragos Aligica and Jennifer Brick Murtazashvili

1. INTRODUCTION

This volume takes as a starting point the observation that our societies are at a crossroads, faced with the challenge of increasing fragmentation due to ongoing technological, demographic, and cultural change. This social diversity, pluralism of values, beliefs, and lifestyles, while often celebrated as a hallmark of democratic societies, is also leading to increasingly sharp cleavages and polarization, inherently setting the stage for social conflict and political tensions.

The trends indicate that in the future, technological advancements, demographic shifts, and cultural tendencies will intensify these societal cleavages and social fragmentation, fueling political tensions. Technology, while connecting people globally, will facilitate clustering and the creation of echo chambers that will antagonize and polarize even more opinions while isolating groups. Demographic changes, such as aging populations or migration, will continue to alter societal compositions and can spill over into conflicts over resources and cultural identity. Cultural trends, driven by globalization and rapid information exchange, will increasingly clash with traditional values and norms, leading to disputes between different viewpoints on lifestyles or social organizational arrangements. Time is not working to heal these divisions within societies but to exacerbate them.

This book seeks to address the vital governance challenges emerging from these contemporary social, technological, and demographic transformations. One of the key assumptions of the perspective inspiring the volume is that despite the sometimes intimidating postmodern appearances, we are not facing something entirely new and unfamiliar. We are, in fact, currently experiencing an avatar of unprecedented intensity of the age-old tensions caused by social diversity and value pluralism – divergent world views, beliefs, and lifestyles

coexisting uneasily within societies. At the most basic level, the existence of multiple, often conflicting value systems and beliefs means there is no universal consensus on governance or morality that can be applied uniformly across all community members, leading to foundational tensions within societies. The question is whether our current political systems, both in the U.S. and globally, can cope. We need to better understand the phenomena in question and try to articulate contemporary responses, appropriate to the new circumstances of the 21st century, built on what we have learned from the historical experience of managing and accommodating diversity.

Therefore, at a deeper level, the project is based on the observation that the defining feature of the modern political and social order, today under pressure, emerged in the West in the wake of the 16th-century Reformation (and of the turbulence associated with it). Its gist was the acceptance of the idea of *modus vivendi* – live and let live – as an implicit default principle of governance. Religious tolerance and coexistence were thus the initial building blocks – and the necessary conditions – of the emerging liberal-democratic-capitalist order that was to become the trademark of the West for the next century. Liberalism, capitalism, and democracy were made possible by the practical understanding of the necessity of *modus vivendi*, forced as a painful practical lesson of the religious wars, and by the efforts made by several generations of thinkers to conceptualize and disseminate the doctrines of coexistence. Slowly, a social equilibrium was created regarding the problem of how diverse values, lifestyles, preferences, and belief systems could coexist in a complex governance system, based on freedom of expression, freedom of association, and an extended division of labor.

This social equilibrium has been constantly challenged. In some cases, the challenges were relatively minor deviations from the mainstream. In some cases, however, they sought to impose an anti-pluralist, authoritarian, or even totalitarian world view and governance formula. The 20th century generated two such major waves (communism, national socialism), and in both cases, the West was resilient and managed to defend itself by adhering to its pluralist, *modus vivendi* foundations. Our project asserts that we are in the middle of a third such wave, which is challenging the very foundations of the system. The current trends are straying from the foundational ethos of coexistence, which has historically been a source of strength for modern, democratic liberal capitalism.

Beyond any alternative interpretations, the fact is that the increasing pressure created by increasing heterogeneity and the ensuing cleavages is putting enormous stress on existing institutions and regimes. Under pressure, the current system is turning against its very foundations, denying the very *modus vivendi*, coexistence philosophy, and ethos that have provided its roots and its strengths over the centuries. By revisiting the concept of *modus vivendi*

– live and let live – this project explores the necessity for governance structures that can accommodate diversity through tolerance, negotiation, and trade-offs, proposing a fundamental reevaluation of our governance systems and of the theories explaining or designing those systems.

In brief, both our diagnosis of the current crisis and the solution space we envision hinge on the notion of *modus vivendi* and the governance formulas associated with it. The liberal-democratic order is a superstructure of *modus vivendi*, not the other way around. To address the crisis in our system, we should go beyond simply tinkering with liberal-democratic formulas. We need to return to the *modus vivendi* foundations of the system. Hence, the key objective is to explore the underlying philosophy and institutional foundation of *modus vivendi* governance arrangements, which support the conditions for a “live and let live” social order in the face of deep pluralism and cleavages. In doing so, a constant effort will be made to link the contemporary political theories of *modus vivendi* to contemporary governance theories based on institutional diversity and polycentrism, anchored in the tradition of public choice and institutionalism.

While being engaged in this effort, for us, the task is not to identify the abstract principle of justice. Neither do we want to claim that we have a ready-made formula for justice and desirable social order end-states. Instead, we want to understand trade-offs, incentive mechanisms, and processes leading to *modus vivendi* preconditions for social stability and social coexistence. What are the legitimate political arrangements that can stem social disorder and conflict in conditions of deep social heterogeneity? What governance structures can create the conditions for these arrangements to operate successfully? How do people overcome these challenges in practical ways?

With a view to contributing to the answers to these and related questions, this book features and reflects a pioneering effort to intertwine two converging and very relevant literatures: (a) modern political economy and public choice institutionalism focused on polycentricity, and (b) the philosophical literature of *modus vivendi* political thought. By exploring the inherent convergence between “*modus vivendi*” pluralism and polycentric governance theory, the book offers new benchmarks for understanding *modus vivendi* governance systems, their role in self-governance, and the criteria for assessing their desirability and feasibility. Moreover, it creates a link between the foundational perspective in social and political philosophy and applied analysis of governance systems, institutional design, and public policy.

Let us now set the stage for the rest of the volume by outlining the basic vision and ideas behind this effort and then by explaining how the contributions represented by the chapters fit into this larger picture.

2. FROM THE IDEAL THEORY OF DESIRABILITY TO THE GOVERNANCE THEORY OF FEASIBILITY

As already noted, the current interest in the idea of *modus vivendi*, “live and let live,” as a principle of political life is the outcome of a sustained trend of increasing social, religious, cultural, and political heterogeneity, as well as of the cleavages, political polarization, and tensions that these forms of heterogeneity have created in modern societies, especially in advanced industrial democracies. In such circumstances, the renewed interest in the theory and practice of coexistence in conditions of deep disagreements regarding values, preferences, and lifestyles, is understandable. The path of developing this important perspective leads naturally to the domain of applied governance theory. As we are going to show, there is an affinity and convergence between the *modus vivendi* perspective and a particular social and administrative sciences literature developed around the notion of polycentrism. In conjunction, they offer a very powerful theoretical corpus that covers both the foundational and applied dimensions of an entire range of current political challenges and debates.

The notion of “*modus vivendi*” politics has been most often associated with the theme of pluralism, as this theme grows naturally from any approach to political order which takes as a starting point the reality of the heterogeneity of human values, preferences, and lifestyle and its applied-level political implications. Its proponents claim that if one recognizes that there is no single supreme, ultimate value or normative principle on which everybody can agree to organize and assess the political system, then one must restructure the entire way of seeing the nature of political order. Value pluralism, writes John Gray (2000, p. 22), “does not leave everything as it is.” It is a subversive doctrine. It undermines all claims of supremacy, being “inimical to fundamentalism of any kind,” including “the cherished dogma of the Enlightenment.” This approach calls for “a changed mental disposition leading us to pose different questions and look for answers for them in a different place” (Kekes 1996, p. 26). The consequences of pluralism, argues Galston (2002, p. 9), “include not only a distinctive type of political theory but also distinctive conceptions of public culture, public philosophy, deliberation, constitutionalism, public policy, democracy, and free association.”

The profound, paradigmatic shift advanced by this line of argument becomes even more evident once the implications of the pluralist response to these challenges are spelled out to their more precise political doctrine consequences. These are captured and expressed in the most concise and telling way by the notion of “live and let live” coexistence, as a governance principle. *Modus vivendi*, explains McCabe (2010, p. 133), rests on a wager: That citizens

“in exchange for the assurance that their own liberties will be protected” and the assurance that they will not “be subject to measures reflecting norms they reject,” will, in turn, “tolerate others having broad liberties and accept that the state power will not be used to advance their particular normative framework.” The notion of *modus vivendi* has thus been increasingly used since the early 2000s to identify a possible political philosophy alternative to the mainstream political thought, considered to be excessively “ideal theory” and liberalism-centered and blatantly deficient in terms of its “realism” (seen both as a descriptive principle and as a practical or applied-level principle for political action).

The “wager” metaphor captures well the general spirit, but behind the notion is a precise claim that *modus vivendi*, without being necessarily liberal, is a precondition to liberal order. As noted, the focus on order challenges mainstream political liberalism (of which John Rawls is the preeminent example and target of the *modus vivendi* authors), which claims that justice is the first virtue of political societies. *Modus vivendi* authors open the way for a “realist” account, emphasizing that security, order, stability, and the creation of minimal conditions of communication and coordination necessary for order to emerge are more fundamental. To be able to engage the issues of justice (or other principles of this sort), one needs to assume that some basic preconditions of order and stability are in place. These insights have generated an entire line of literature both advancing and criticizing aspects of this alternative to the mainstream (McCabe 2010; Gray 2000; Neal 1999; Valier 2019; Rossi 2010).

This line converges with a related but different line of argument developing the “political political theory” thesis, advocated first by Waldron (2016, p. 6). “Even if our main preoccupation remains with justice, liberty, security, and equality,” writes Jeremy Waldron, “we still need to complement that work with an understanding of the mechanisms through which each of these ideals, these ends of life, will be pursued.” That effort is at the core of the call for “political political theory,” a theory “addressing itself to politics and to the way our political institutions house and frame our disagreements about social ideals and orchestrate what is done about whatever goals we can settle on” (Waldron 2016, pp. 7–8).

All the above leads unmistakably to one conclusion: To be able to respond to the challenge of deep heterogeneity and social cleavages in the contemporary world, we have to engage less in theorizing the desirable in ideal terms and engage more with the problem of governance and the feasibility of institutional arrangements. A discussion of the mechanics of governance cannot remain confined to the sphere of ideal theory (Waldron 2016, pp. 9–10). With that, one must enter – like it or not – into the territory of governance theory, political economy, public choice, and institutionalism. A political theory fixated

on ideals and the principles of the desirable misses the crucial problem of the public choices and institutional arrangements called to materialize those ideas in governance systems or regimes.

And thus, seen in the light of all of the above, the approach that combines pluralism, realism, and “political political theory,” under the banner of *modus vivendi* aiming to shift the focus towards the importance of governance systems and institutional arrangements and processes, is leading in a natural way into applied governance theory territory. The promise and the challenge to any *modus vivendi* perspective come precisely from its intrinsic focus on the governance dimensions and the associated issues of feasibility and resilience. Without a credible governance theory built upon the institutionalist foundations, the promise to offer an alternative to the mainstream remains a mere yearning.

Henceforth, the key task of the *modus vivendi* perspective, worthy of its name and ambitions, is to articulate the governance theory implications of its foundational philosophy. The question hence is this: Is it possible to identify the elements of the governance system and institutional arrangements that could materialize the *modus vivendi* vision of governance and social order? Is there a governance theory associated with the *modus vivendi* perspective? Our project, out of which this volume has emerged, explores one possible way to advance an answer to this particular challenge.

More precisely, we argue that the main elements for a powerful and credible candidate in this respect are to be identified in a series of developments that have been taking place at the interface of public choice, political economy, institutionalism, and social philosophy, and which all gravitate around the notion of polycentrism. The theory of polycentricity offers not only venues for linking political philosophy to institutional analysis and public choice but also does that in a way that makes possible the development of governance theory as a natural, applied-level extension of political philosophy based on the realist assumption of *modus vivendi* pluralism.

The proposition is that there is a natural, intrinsic affinity and convergence between the pluralist, *modus vivendi* perspective and polycentricity theory, particularly as advanced by the work of Vincent Ostrom and 2009 Nobel Prize in Economics co-recipient, Elinor Ostrom. The two may be seen as two sides of the same coin, two related, complementary dimensions of a distinctive approach to social and political order. Polycentricity represents the public governance, institutional response to the challenges, problems, and solutions identified by pluralism, while *modus vivendi* pluralism represents the social and political philosophy which operates tacitly as a complement and foundation of polycentricity seen as governance theory. Exploring the convergence between the two illuminates one of the most powerful and effective examples of the link from foundational theorizing to applied theory, as well as the move

from the broad normative ideal theory of the desirable to the non-ideal, more institutional, and socially grounded “political political theory” of the feasible, in the current circumstances of deep and increasing social, political, and cultural polarization and heterogeneity.

3. THE MODUS VIVENDI PERSPECTIVE

Let us start with a brief overview of the most important features of the complex pluralism-realism-modus vivendi family of ideas. The relevance of polycentrism becomes clearer only when these specific features of the modus vivendi approach are articulated. The challenges they respond to at a foundational political philosophy level need to be further reflected by (and find solutions in) the governance theory and in the governance system itself.

In this respect, the first thing to be noted is that pluralism, properly understood, goes beyond the simple and intuitive idea that we should accommodate diversity and therefore we need to facilitate the alignment between, on one side, diverse forms of authority, social preferences or values and, on the other side, diverse institutional arrangements with specific jurisdictions (McCabe 2010; Gray 2000; Neal 1999). At the core of the challenge is, in the end, not only the problem of mere diversity itself but, even more consequential, the problem of the *irreducible* diversity of values, ways of life, perspectives, and principles defining the social world. Irreducibility brings with it incommensurability as a reality that challenges the most basic intuitions and categories we use when we conceive and evaluate social order.

The logic of pluralism follows through: If all of the above are a realistic rendering of the human and social condition, then the public/political space cannot be effectively regulated by evoking one ultimate principle of a moral nature. The plurality of moral principles, the tensions between those moral principles, and the disagreements generated by them, are of such of nature that they question any approach in which a normative or moral principle could claim to be the ultimate and overriding parameter of governance. If the pluralists are right, social order itself needs to incorporate tensions and contradictions that are irreducible. And thus, conflict and resolving conflict, via governance and institutional arrangements, are brought back to the forefront as the central problem of governance (Kekes 1996, p. 23).

Second, the reality of pluralism is pushing us beyond the sphere of mere values and norms, drawing our attention to the plurality of factors defining political problems and their solutions. Pluralism not only acknowledges the diversity and irreducible nature of values, principles, and ways of life but also acknowledges the diversity of factors determining the domain of political choices and political order. It creates the conditions for an approach that takes social and economic forces and institutional arrangements, public bargaining

and decision processes, and the variety of factors having to do with the origin, design, operation, and change of public choice arrangements and places them at the core of political theorizing.

The main task is hence not anymore one of identifying abstract principles of justice (or for that matter any overriding principle of justice) but to explore the multitude of specific arrangements mentioned by Stuart Hampshire (2001): the mechanics of trade-offs, the institutions for adversarial argument, the processes and manners of negotiation, the rules and habits of advocacy, and of conflict resolution. The normative element is built in. The question is, therefore, which legitimate and authoritative political arrangements can keep social disorder and conflict in check? How is legitimacy and efficacy going to be generated in a political system? What are the governance structures able to create the conditions for these arrangements to operate successfully?

The next key element implicit in the logic of the *modus vivendi* comes from the fact that a *modus vivendi* arrangement must be, by its very nature, based on various forms of consent. The governance system, the institutions, or the rules and procedures have to be acceptable to those who are going to be subject to them. The participants in a *modus vivendi* arrangement have to enter it consensually, and that gives the arrangement intrinsic legitimacy. Bernard Williams (2005) calls this second element the legitimacy conferring feature of *modus vivendi*.

Two important aspects need to be noted in this respect. To begin with, the agreement need not be so much – if at all – on substantive issues, on values, or on fundamental principles and world views. The agreement could be on the procedures, arrangements, and institutions which are going to regulate the relationship between the participants. Furthermore, the various reasons why participants accept those rules, arrangements, and procedures are secondary. The reasons may be self-interested, or some ethical principles, or they may be altruistic or may be fear and prudence. As Horton (2010, pp. 439–440) has explained, “[m]odus vivendi can be arrived at by drawing on whatever resources moral, intellectual, cultural, pragmatic as well as self-interest, are available in helping the parties to reach it.”

Therefore, *modus vivendi* should ultimately be seen as a form of practical accommodation. It is essentially a working arrangement, and as such it may be based on a variety of factors and it may be accepted and justified for a variety of reasons. Moreover, different participants may have different reasons for entering into a particular agreement. That means that *modus vivendi* has, in fact, the features of a relatively complex system, operating as an ongoing process of mutual adjustments and accommodations. Moreover, if value pluralism forces us to accept that in many hard cases there are no universally right answers, then we have to embrace “a view of political reasoning as being essentially circumstantial, as being not the reasoning from first principles that

could ideally be demonstrated, but instead a form of practical reasoning in which no step is necessitated" (Gray 1995, p. 122).

That raises very interesting issues regarding its political-ideological status. In this respect, *modus vivendi* eludes the standard typologies. It may be seen in liberal terms but also in a-liberal, non-liberal, or even illiberal terms. As all scholars advancing the liberal version are emphasizing, *modus vivendi* has implications that set it apart from other forms of liberal theories. It is distinctive in terms of both what it demands, "in particular the greater tolerance for the norms and practices of diverse groups in various contexts," and in terms "of what it believes the citizens to work through political deliberation" (McCabe 2010, p. 133).

Last but not least, it is very important to note that *modus vivendi* is a "second best arrangement." *Modus vivendi* "might emerge as a compromise among citizens who recognize the value of ordered political life but realize that the political division recommended by their distinct normative frameworks cannot be achieved," according to McCabe (2010, p. 160). Hence, *modus vivendi* is by its very nature a second best option. Precisely because of that, it is an option in which the focus is shifted to the procedures and rules of agreement and conflict resolution. Thinking of *modus vivendi* as a second best approach, in which procedure takes precedence over substance, helps us put in perspective the limits and expectations one may legitimately have about it (Gray 2000; Horton 2010; McCabe 2010).

At the same time, the "second-best" reality of *modus vivendi* also illuminates the contextual nature of most institutional and governance arrangements. While the "first-best" ideal is relatively clear and firm, the specific arrangements of *modus vivendi* cannot be specified universally and vary in function of circumstances. Politics takes place in a large diversity of circumstances of disagreement and conflict. A realistic approach to politics has to take into account the contextual and contingent aspects of most political institutions and their performance.

To sum up, the *modus vivendi* approach reacts to what it considers to be the lack of realism in mainstream forms of liberalism regarding the nature of political order and the factors that are actually are at the core of political life. This is the first type of realism: descriptive. From that emerges the second type of realism, of a normative nature. Governance structures and decisions have to operate under feasibility conditions, and those conditions are mostly of a circumstantial nature. That has significant normative implications. Together, the two forms of realism predefine the governance implications of the *modus vivendi* position.

As we'll see, the relevance of the notion of polycentricity and of its associated theoretical apparatus comes precisely from the fact that it offers a way of engaging those factors and of organizing them into a powerful descriptive and

analytical framework. Second, it offers a fresh understanding of the sources of legitimacy in *modus vivendi* regimes. Moreover, by its very nature, the concept of polycentricity is able to respond to the most important challenge against *modus vivendi*: the criticism focused on its intrinsic instability.

4. POLYCENTRICITY: AN ANALYTICAL AND NORMATIVE FRAMEWORK

The notions of polycentricity and polycentric governance have generated significant interest among social and political scientists. Part of that interest is due to the fact that the increasing social heterogeneity induced by current technological, cultural, and demographic changes requires a renewed approach to governance and political responses to the new realities created by it. Another part of the interest is due to the fact that Elinor Ostrom – one of the main proponents of the concept – was a recipient of the Nobel Prize in Economics in 2009 (her Nobel Prize lecture was entitled “Beyond markets and states: polycentric governance of complex economic systems”). But the largest part of that interest is undeniably due to the analytical import of the conceptual and theoretical apparatus associated to the notion.

The source of the idea was the work of Michael Polanyi, who was the first scholar to identify and give a substantive description of the patterns of order of a polycentric nature. In his *The Logic of Liberty* (1951), Polanyi distinguished between two different forms of organization. One is deliberate or directed, coordinated by an ultimate authority exercising control through a unified command and control structure. The other is decentralized and polycentric, a complex system of decision centers making mutual adjustments in overlapping decision authority areas “within a general system of rules where each element acts with independence of other elements” (Ostrom 1972). Vincent Ostrom (1972) identified the potential of the notion for public administration analysis and elaborated its working definition to its classic form around three elements: multiple decision centers and overlapping and competing jurisdictions that operate under an overarching system of rules.

Applied first by Vincent and Elinor Ostrom in their studies of metropolitan governance, polycentricity was mostly approached and discussed as a governance theory, part of the public administration debates, and of the public choice institutionalism research program (Aligica and Boettke 2009). The political economy and public choice apparatus associated to the notion gave it a robust analytical capacity and versatility. That allowed its employment for analytical and normative objectives in a variety of domains and in very concrete governance and public administration situations such as metropolitan reform, the provision of local public goods and services, and the analysis of specific policy

areas such as education, governance of forests and fisheries, police services, and irrigation systems.

Decisive for a correct understanding of the notion of polycentricity is to note that this novel approach to the analysis and evaluation of public governance took shape in the field of public administration in the context of what was called the “metropolitan reform debate.” The debate, which started mid-20th century, grew around the claim that there was a serious problem with the American metropolitan government. A report released in 1970 synthesized what most mainstream Public Administration scholars and practitioners believed: Governance in metropolitan areas based on overlapping local units was “a pathological phenomenon,” an “organized chaos” generated by the “multiplicity of political units,” “duplication of functions,” and confusing “overlapping jurisdictions.” The solution, once this diagnosis was given, was straightforward and seemed absolutely natural: reorganization and consolidation into larger units, creating an administrative system with a single dominant center and one chain of command and control (Aligica and Boettke 2009).

Vincent and Elinor Ostrom were among the small group of public administration scholars questioning both the diagnosis and the solutions. What they called “their political economy approach” questioned the mainstream reformers’ assumption that centralized, large bureaucracies were more efficient in solving problems and in providing public goods and services than decentralized systems based on competition or bargaining. A system having more than a single producer of urban public goods within a specific area may enable citizens to make more effective choices about the mix of services they prefer to receive. Ultimately, the Public Choice perspective advanced by the Ostroms means that public administration can be viewed in terms of overlapping and competing “multiorganizational arrangements” rather than a hierarchy of agencies (Ostrom and Ostrom 1971, p. 212). One rule or principle is not universally applicable; therefore, one needs to be open to alternatives (V. Ostrom [1972] in McGinnis 1999b, p. 54). And thus, the combination of the logic of this argument, public choice theory, and empirical evidence from the American metropolitan governance cases led to a new approach built around the correlated concepts of monocentricity and polycentricity.

By conceptualizing metropolitan areas as polycentric political systems, we were suggesting that a system of ordered relationships underlies the fragmentation of authority and overlapping jurisdictions that had frequently been identified as “chaotic” and as the principal source of institutional failure in the government of metropolitan areas. We identified a polycentric political system as having many centers of decision making that were formally independent of each other. (V. Ostrom [1972] in McGinnis 1999b, p. 53)

To sum up, what was called “the political economy approach” to Public Administration questioned, from a public choice perspective, the view based on the centralized bureaucratization of governance. Instead, it focused on systems based on pluralism, decentralization, competition, and bargaining, defined by multiple decision-making centers operating within overlapping and competing jurisdictions (V. Ostrom 1972, 1971, 1991; McGinnis and E. Ostrom 1996; McGinnis 2000, 1999a, 1999b; Boettke 2015a, 2015b).

In the context of our discussion, it is essential to note that all of the above define a process leading not to “a single, most efficient pattern of organization but to a continual search for more efficient ways to perform” (Oakerson and Parks [1988] in McGinnis 1999b, p. 320). Elinor Ostrom notes that the structure of such systems predicated on competitive governance and public entrepreneurship induces self-organization, initiative, and institutional adaptation. At the same time, it is important to note that once the structural features of polycentricity are identified, it becomes evident that polycentrism is not just a phenomenon related to metropolitan governance systems. The basic social functions and institutional domains of a society could be organized in various degrees under a polycentric order: polycentricity in the structure of governmental arrangements, in economic affairs, in political processes, in judicial affairs, in constitutional rule (V. Ostrom [1972] in McGinnis 1999b, p. 56; McGinnis 2000). The relationship between these domains is also important for descriptive, analytical, and normative reasons (McGinnis 2000).

In brief, polycentricity has emerged as a framework capturing the coexistence of multiple centers of decision-making with different objectives and values. The multiple overlapping centers of decision-making may share the same territory, or they may be territorially delimited, or they may have a functional, non-territorial dimension. Polycentricity offers a set of theoretical lenses helping to identify patterns of order where, at first sight, no pattern was evident. At the same time, it illuminates the mechanisms and processes at work among and within institutional arrangements, which operate on logics that are different from the better-understood logics of the market and the state. Finally, polycentricity seems to be operating each time the diversity of values, perspectives, and interests is accommodated successfully by a society or community through institutional diversity in public governance arrangements. Polycentricity appears to be intrinsically related to pluralism: a phenomenon that is both a consequence and a solution to pluralism. As such, it seems eminently fitted to deal with a social and political universe as defined by the realism of the *modus vivendi* perspective.

5. MODUS VIVENDI AND POLYCENTRICITY

With a broader and better view of both polycentricity and modus vivendi pluralism, we are now in the position of putting the pieces together. Even a cursory overview of polycentricity and modus vivendi perspectives, as the one sketched above, gives us a sense of the affinity and convergence between them. Both seem to be facets of a response to the challenge of pluralism. Both recognize the multiplicity of factors and conditions leading to the patterns of order and also the dynamic nature of those patterns. Both seem to emphasize the procedural, institutional, and process nature of the patterns of social order. In brief, polycentricity looks like a natural extension into the governance theory of the pluralist, modus vivendi view, while modus vivendi looks like the political philosophy or political doctrine which gives background significance and depth to the idea of polycentric governance systems.

Polycentricity goes beyond pure political theory and adds a public choice and governance theory (i.e., the concern with the institutional conditions of public goods and services provision and production) dimension to the picture. It operates as the meta-level framework which both integrates the various domains of authority and sovereignty while also creating the possibility to disentangle them, when necessary, for analytical, normative, or practical reasons. For instance, the realism claimed by modus vivendi polycentrism assumes that the first political question is the securing of order, protection, safety, trust, and the conditions of cooperation. That doesn't mean that the provision of order is a sufficient condition for its legitimacy. However, it is most elemental for the emergence of a political order. The polycentricity framework recognizes and operationalizes this reality. (In fact, one of the first areas of applied investigations explored by the Ostroms was precisely police and law and order.) The collective action problem in generating this type of basic condition of political order could be approached as a collective action, public good production problem, and the public choice theoretical apparatus could be mobilized in this respect (Ostrom and Ostrom 2004; Buchanan and Tullock 1962/1999).

If the reality of political order, which is the key for modus vivendi perspectives, comes to be conceptualized as a collection of public and collective goods provided through a certain set of institutional arrangements, polycentricity offers a framework for both disentangling and disaggregating these goods and services in various combinations and levels of production. Once approached in this light, the initial collective action problem has to be solved by a series of second-order and nested collective action solutions. That brings to the fore a more nuanced view of the multi-layered institutional and socio-political processes that the modus vivendi literature alludes to when discussing the stability of modus vivendi regimes. The same thing goes with trust or with

the settlement of social agreements. Polycentricity allows both the analytical segmentation of domains and arenas, as well as their aggregation and recombination for descriptive, explanatory, and evaluation purposes. The applied-level implications follow suit.

Polycentricity thus gives conceptual and theoretical structure to the idea of *modus vivendi*. It converts a social and political philosophical position into a governance theory. It gives granular focus and precision to the analysis. It does that because it is based on a public choice logic having the capacity to identify and bring to the foreground issues such as the feasibility of decisions and institutional arrangements, given specific constraints, the impact of rules and resources on choices, the dilemmas of collective action, and the trade-offs in the provision, production, distribution, and consumption of public goods and services. At the same time, it is sensitive to the incentive, information, motivation, and knowledge processes associated with all of the above. In the end, it demonstrates in a concrete way the priority of the political economy over ideal theory and how that priority may be converted into a powerful instrument for analysis and evaluation. Polycentricity becomes the tool for operationalizing the *modus vivendi* claims of realism and contextual grounding.

As in the case of all public choice political economy-inspired theoretical frameworks – criticized *a priori* for their alleged cynicism or amorality – it is important to preemptively make an important point. The shift to public choice and feasibility over ideal theory does not mean that the approach is amoral. In conjunction, *modus vivendi* philosophy and polycentricity theory bring a change of fundamental perspective – that is to say, they make manifest what Schumpeter (1954, p. 41) would have called their “preanalytical vision.” Such a vision teaches us to *see* things in a certain theoretical light. This is exactly the move required by the *modus vivendi* polycentricism approach. The shift of perspectives only takes morality from the foreground and places it in the background, while taking the political economy public choice from the background to place it in the foreground. That simple shift helps us escape the myth of an overlapping consensus over a certain understanding regarding a principle of justice, as the key factor of order and stability. With this observation, we have come both to reassert the distinctiveness of what we call the *modus vivendi* pluralist approach from other visions and approaches, and, at the same time, to identify one of the mutual fundamental connections between *modus vivendi* and pluralism: their shared pre-analytical vision, which has more of a realistic than an idealistic tinge.

To sum up, taking pluralism and diversity as a starting point and evolving along lines congruent with the *modus vivendi* philosophy, polycentricity gives a precise analytical and theoretical structure and support to the pre-analytical vision framing *modus vivendi* pluralism. It offers a way of approaching things from an institutional and governance angle, thus giving thus a concrete

response to the call for “political political theory” (Waldron 2016). In all these, the ethical considerations, as well as a wide range of incentives, information, and contextual socio-cultural conditions, are all important. But they are all part of a broader picture and process. Polycentricity helps us to articulate the principles and mechanisms of such processes in which tensions, trade-offs, bargaining, and competing demands are an intrinsic part of a dynamic, complex phenomenon that is at least partially institutionalized. The idea of polycentricity captures its governance and institutional dimension and helps *modus vivendi* to escape the sphere of broad, general, institutionally and politically under-specified discussions about principles and ideals. At the same time, it gives it the conceptual resources to identify, describe, analyze, and assess the mechanisms and processes of political coexistence in societies defined by deep heterogeneity and multiple cleavages.

6. AN OVERVIEW OF THE VOLUME

Now that the main vision and ideas framing this volume have been outlined, we are now in a position to show how the contributions represented by the chapters fit into this larger picture. Before moving ahead, let us note that the project is the product of a programmatic and institutionalized effort. The University of Pittsburgh’s Center for Governance and Markets has created a special initiative to investigate the family of ideas and themes associated with the principles of *modus vivendi* and explore, in that light, through an interdisciplinary and applied theory approach, the possible governance solutions to the current crisis. The project aimed not only to diagnose factors fueling the crisis but also to contribute to the current efforts to articulate self-governing solutions in both theoretical and applied-level governance terms. Consequently, the volume is a result of a collective effort in exploring the conceptual, theoretical, philosophical, and thematic domains defined above. The contributions come from two directions that are converging in a space where theoretical reason and practical reason coexist: On the one hand, the foundational philosophy and theory, and on the other, the applied-level case studies and evaluations. Given this underlying approach, the volume is organized into two sections. Foundational perspectives are the focus of Part I. Part II concentrates on case studies, which empirically and historically ground the discussion and theoretical approaches.

Part I opens with the contribution of David McCabe, one of the main scholars contributing to the revival of interest in *modus vivendi* and its application to current governance issues. The chapter provides an overview of different ways of conceptualizing the relationships among *modus vivendi*, polycentricity, and liberalism, and explores some of the important challenges facing these different models. McCabe warns from the very beginning that, although some may see a natural connection between the *modus vivendi* approach and

polycentricity, the relationship between these two projects is neither direct nor uncontroversial. Nor is it obvious how polycentricity and *modus vivendi* stand with respect to the liberal state. McCabe thus raises thus a series of questions, pointing out the magnitude of the challenge ahead and the profound relevance of the themes addressed by this research agenda. Foundational questions about both the philosophical underpinnings and the appropriate scope of the liberal state are at stake.

In Chapter 2, Aylon Manor advocates for a fundamental shift in *modus vivendi* theory from an ideational to a social conception of conflict. Manor contrasts traditional *modus vivendi* approaches, which prioritize philosophical disagreements as the root of political discord, with a perspective that locates the genesis of such conflicts within the structural and social frameworks of society. The chapter reviews historical and experimental evidence supporting the social conception and advances an approach to it. The chapter concludes by exploring the implications of this paradigm shift across seven areas of political analysis, including bipartisanship, political representation, and electoral incentives.

In Chapter 3, Robert Gabriel Ciobanu comparatively analyzes the political theories advanced by John Gray and David Mitrany in the context of a discussion regarding functional *modus vivendi* solutions to governance problems. The chapter sheds new light on the works of these two different, but complementary, political thinkers. It further explores Gray's *modus vivendi* and Mitrany's functionalism as governance solutions that recognize and seriously engage with the unavoidable reality of value pluralism. An important argument of this chapter is that while Gray and Mitrany can still be regarded as liberal thinkers, they are part of a more peripheral strain of liberal thinking, which starts with the assumption that political consensus is not possible. Hence, according to them, the task of political thinking is to determine the appropriate institutions for different social and political circumstances. If no consensus is ever possible, then every institutional solution is contingent and only temporarily valid. Accordingly, political theory should focus on the rather complicated exercise of institutional crafting and cease to engage in ideal theory.

Part II of the volume is dedicated to a series of case studies that illuminate in various ways the empirical and policy agenda, exploring the possibility of *modus vivendi* and governance arrangements of a polycentric nature in conditions of deep cleavages and social and value heterogeneity.

In Chapter 4, Rebecca Yemo addresses a very sensitive theme, in a superb illustration of the relevance and complexity of the *modus vivendi* approach. The practice of polygamy has been widely condemned as a violation of women's rights and, in some cases, declared illegal in various states. Calls for the abolishment and criminalization of this form of marriage have come from

United Nations human rights monitoring mechanisms such as human rights treaty bodies and the Universal Periodic Review, human rights advocates, scholars, and states. Given that in several states, especially within sub-Saharan Africa, polygamy is considered an acceptable form of marriage, a way of life, and a significant part of one's religious or cultural values, a debate has emerged concerning whether the practice indeed violates women's rights or is simply a form of marriage that people should have the freedom to engage in. The chapter seeks to contribute to this debate by exploring whether and how polygamy should be embraced and accepted as a form of marriage. Using Ghana as a case study, this chapter highlights that even in the world of human rights, it is possible to co-exist with and accept deep differences, while the *modus vivendi* framework offers a meaningful approach that could make this possible.

In Chapter 5, Kal Demerew presents blockchain contractualism as a praxis-oriented framework for addressing foundational state-building gaps in the post-colonial world and implementing a *modus vivendi*. The chapter starts by examining the two most enduring challenges in post-colonial state-building, the transactional challenge of establishing sovereignty, and the ideational challenge of establishing relational governance based on reason and persuasion. Then it reviews the limitations of classical liberal social contract models in addressing these foundational transactional and ideational gaps in post-colonial contexts, making the case for a *modus vivendi* configuration of contractarian theory. Next, it develops the framework of blockchain contractualism as a "second-best" alternative for post-colonial state-building; this refers to a system in which individuals conduct political and economic transactions under full autonomous agency, creating emergent relational identities. The fourth and final section examines how this framework can be understood as a policy-relevant praxis for implementing minimally liberal systems in post-colonial contexts, aided by emerging technologies. The practical limitations of blockchain contractualism in ultimately addressing the critical post-colonial state-building gaps are also explored.

Bryan Cheang uses the case of Confucianism in East Asia in Chapter 6 to consider the value of polycentrism in governance debates in non-democratic societies outside the Western world. Given that polycentrism claims to be pluralistic, how might it be perceived in a diverse world where democracy itself is questioned? This reflection is especially warranted given that around 88 percent of the world's population lives in the global South, many of whom may not readily accept the universal claims of liberal democracy. The chapter raises the issue that polycentric governance, to the extent that it is grounded in normative individualism, may not find resonance with political cultures that lack a historical appreciation for and sociological predisposition to pluralistic decision-making. East Asian citizens, seeing the state as an extension of the family, may not value normative individualism as much as those in liberal

societies do. However, the chapter shows that polycentrism remains valuable as a method of institutional analysis. It provides pragmatic, though not necessarily moral, reasons for non-Western societies to appreciate the value of institutional decentralization. In the East Asian case, polycentrism can help enhance the legitimacy of governments, defuse social tensions, and build social trust.

Alexandru Dincovici takes the discussion to a different level in Chapter 7, focusing on the case of non-human agents and institutional design from an alternative perspective, influenced mostly by continental philosophy. His argument is relevant for discussions of polycentric governance and *modus vivendi* political philosophy in the context of 21st-century developments. Firstly, it challenges traditional human-centric perspectives on institutional design by integrating non-human agency, including natural agents, infrastructure, artificial intelligence, and human-made objects. This integration aligns with the principles of polycentric governance, while recognizing that the role of non-human entities enhances our understanding of how diverse actors contribute to institutional stability and adaptability. Secondly, it advances an institutionalist perspective that accounts for the complexity of contemporary worlds and the distributed nature of cognition. By shifting the focus from individual human actors to cognitive assemblages, it provides a framework for managing diverse societal needs and preferences, which is crucial for *modus vivendi* approaches amidst value pluralism. Lastly, the chapter examines fundamental assumptions about human centrality in institutional processes and the performativity of the social sciences. Collectively, these insights offer an intriguing, original, and unconventional understanding that addresses the themes explored in the volume.

In Chapter 8, Kris Kanthak takes as a starting point the observation that the global rise of anti-elite populism poses an existential threat to democracy worldwide. Many people outside of academia and urban centers feel excluded and maligned, potentially leading to a worldwide “revenge of places that don’t matter,” in which populist leaders can use this feeling of exclusion and disrespect to foment political strife and instability. But, notes Kanthak, in this approach to the deleterious consequences of the rise of “rural resentment,” there is a surprising lack of curiosity among academics about the nature of these resentments, as if somehow the insults against them emerge whole cloth from the imaginations of rural Americans. The implications for a democratic coexistence as a regime are significant. This chapter considers how the academic understanding of the urban–rural divide might change and improve if academics were willing to take the lessons learned from polycentricity and extend the perspectives in research discussions to include people who heretofore have been considered subjects, rather than producers, of research.

Finally, in Chapter 9, Jennifer Murtazashvili and Ali Palida use a case study to explore the thesis posed by critics of *modus vivendi* pluralism systems

regarding their resilience – specifically, their systemic vulnerability and fragility in handling environmental shocks and sustaining beneficial institutions and norms. According to these critics, this lack of robustness presents a significant challenge to the widespread adoption of such systems. The chapter examines inter-jurisdictional conflict as an economic problem involving the allocation of resources between productive tasks and military capacity. It argues that polycentric defense arrangements, which distribute military capacity across multiple decision centers, can enhance system resilience by reducing incentives for expropriation while simultaneously providing centralized institutions for coordination. The analysis supports the view of collective security as a service coproduced within polycentric arrangements rather than as a public good provided solely by a centralized state.

7. CONCLUSIONS

An overview of the underlying vision and the structure of the volume has shown that there are ways to respond in theoretically and empirically informed ways to the increasing social diversity and the pluralism of values, preferences, and belief systems created by the ongoing technological, social, demographic, and cultural changes redefining contemporary societies and communities. The profound challenges to the existing political and governance systems require a renewed effort to understand what kinds of institutional arrangements and governance systems facilitate or undermine tolerance, peaceful coexistence, and productive cooperation between individuals and communities at all levels – from the local to the international level – in such conditions of deep pluralism and divergence of beliefs, values, and preferences. The philosophy, theory, institutional analysis, and design of “modus vivendi” governance arrangements, which support the conditions for a “live and let live” social order, are critical contributions to our response to these challenges.

This volume shows that the effort to link the political theories of “modus vivendi” to governance theories based on institutional diversity and polycentricism has the potential to create multiple conceptual and analytical resources in this respect. Based on the exploratory discussions reflected in this volume, it looks like “modus vivendi” polycentricism has the potential to inspire not only theoretical insights but also the development of applied-level approaches and solutions, capable of accommodating the contemporary social space increasingly fragmented by technological, social, and ideological cleavages. This dual focus on theory and application makes this volume a valuable resource for both scholars and practitioners seeking to navigate and address the complexities of governance in pluralistic societies and, as such, motivates further explorations on the path opened by this volume.

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PART I

Foundational perspectives

1. Liberalism, modus vivendi, and polycentricity: mapping the terrain

David McCabe

1. INTRODUCTION

Both the philosophical underpinnings and the appropriate scope of the liberal state have been the object of vigorous argument for several decades. More recently, a growing number of political theorists have turned their attention to two topics that both connect in important ways to those debates and have their own intrinsic importance. The first is the interest in what has been called a modus vivendi approach to political theorizing. The second is the exploration of polycentricity as an alternative to approaches to politics that assume the familiar model of a centralized state with broad-reaching sovereignty. There's a tempting line of thought that (i) begins in dissatisfaction with liberalism, (ii) proceeds to modus vivendi as a more promising option, and (iii) culminates in an embrace of polycentricity as the natural conclusion of modus vivendi principles. But the relations among these three ideas are, I think, neither direct nor uncontroversial. This chapter aims to provide an overview of different ways of conceptualizing the relationship among modus vivendi, polycentricity, and liberalism, and to show how the answers we give to one set of questions can have important consequences for how we approach the others.

2. WHY MODUS VIVENDI?

On one widely endorsed account, Anglo-American political philosophy has in recent decades been dominated by a distinctive approach called liberal moralism. That approach is marked by five important features. First, it is chiefly occupied with exploring the idea of justice. Second, it approaches that task by asking what justice looks like under ideal conditions. Third, it appeals to norms seen as having authority independent of the political domain. Fourth, its arguments begin with a notion of persons as free and equal and on that basis arrive at some form of liberal politics as normatively superior to other models

of political life. And fifth, it asserts that the positions it reaches are ones that all citizens have reason to endorse, and that its central principles can be the object of consensus among reasonable citizens.

Against that approach have arisen two critiques that are closely allied in temperament but differ in points of emphasis. The first, political realism, tends to be deeply skeptical of approaches that center on analyses of large-scale, free-floating normative concepts like justice, equality, legitimacy, and the like. Realists stress instead the importance in understanding politics of less savory factors like the desire for power, the unpredictability of human passions, the motivating dynamics of humiliation and revenge, and other elements that don't fit neatly within the liberal moralist toolbox. Realists charge moralists with failing to understand how politics really works, and they seek to redirect our attention away from the abstraction of normative concepts toward the more mundane, less noble, and far more relevant issues that fundamentally drive the political. Raymond Geuss' suggestion that political theory must ever attend to Lenin's central question "Who whom?", which Geuss glosses as "who does what to whom for whose benefit?", exemplifies this aspect of realism (Geuss 2008, p. 25).¹

The other critique is advanced under the banner of *modus vivendi*. While many *modus vivendi* theorists share the realist views just mentioned, the heart of their approach has a different focus. In their eyes, moralism's central flaws are its unwarranted emphasis on ideal conceptions of justice (a function of the outside influence of Rawls' *A Theory of Justice*) and its corresponding failure to attend to the absolutely central good that all political institutions exist to provide (i.e., stable conditions of peaceful social order).² Advocates of *modus vivendi* aim to persuade theorists to recognize the value of that central good, to abandon the emphasis on ideal conceptions of justice, and to acknowledge that the depth of normative disagreement characterizing most political communities makes the search for deep normative consensus grounding common political institutions a fool's errand. Motivated by the idea that the central task of politics is to create institutions within which people who disagree widely in their normative commitments can nonetheless lead ordered and stable lives alongside one another, *modus vivendi* theorists advocate for a thinner, more tolerant account of legitimacy, one that abandons the narrow constraints set by the parameters of liberal moralism but that still possesses sufficient critical force to allow us to distinguish acceptable forms of political life from those that are morally problematic.³

From this account, it's clear how much the *modus vivendi* approach shares with political realism, and it's no surprise that the work of various thinkers (e.g., Bernard Williams, Matt Sleat, and Enzo Rossi) has figured prominently in both camps. Here I won't try to disambiguate the two. As others have suggested, I don't think we go far astray if we see *modus vivendi* as one position

within a wider realist movement stressing closer attention to the practice of actual politics.⁴ But while realists can seem so keen to point out flaws in liberal moralist approaches, *modus vivendi* for its part aims at offering a positive political vision (though one deeply infused with the spirit of realism) to replace the liberal moralism that has dominated post-Rawlsian political philosophy. My interest here is in that positive vision.

In considering it, I shall on occasion return to a question that is, I think, not asked often enough in the context of political theorizing: What difference does it make, what improvements come about, if we adopt the *modus vivendi* approach in contrast to that of liberal moralism? I'll call this the "payoff" question because one's answer to it not only explains the advantages said to derive from adopting the *modus vivendi* approach but also provides us with a useful barometer to assess the success of its critique, as I hope to show.

One perfectly reasonable answer to the payoff question is that *modus vivendi* makes possible greater descriptive accuracy and offers a fuller understanding of politics, and in this way adds to our knowledge of our world. With the concept of *modus vivendi* in hand, we can better appreciate the value in forms of political life we might have too hastily dismissed.⁵ This interest in greater accuracy is surely worthwhile. Nonetheless, the tone of moral urgency, verging occasionally on exasperation, that marks the work of many *modus vivendi* theorists suggests that something beyond the mere desire to understand is driving the approach as well. I can discern at least two sources of frustration.

The first is the perception of a certain intellectual arrogance on the part of liberal moralists, a kind of normative imperialism that, in subjecting all political communities to its own ethical vision, recapitulates troubling historical projects of Western hegemony. In the eyes of its critics, the confident pronouncements of liberal moralism, advanced from the allegedly disinterested standpoint of pure moral reflection, ignore the degree to which the authority of political norms is always a function of specific contexts and contingencies.⁶ Still, while such arrogance is never attractive, combating it is not, I think, the sole or even chief aim of *modus vivendi* theorists. Rather, and this is the second source of frustration, advocates of *modus vivendi* worry that political communities that all in all are effectively solving the central problem of politics (i.e., the creation of stable order) will wrongly be judged deficient because they don't satisfy liberal moralism's parochial standards. That negative judgment can carry costs for such regimes that take a range of forms: at a minimum, the condescension and disdain that those sympathetic to liberal moralism may harbor toward citizens in other communities who seem wrongly content with their own arrangements; more robustly, decisions by liberal states not to trade or enter treaties with such communities, nor to support them in various ways, perhaps even to encourage opposition movements that risk destabilizing *modus vivendi* arrangements that are working very well. One aim of the

modus vivendi project, I'm suggesting, is to win for such communities and their citizens a more generous hearing than liberal moralism offers, to accord them greater respect than political theorists have tended to show.

If modus vivendi constitutes an improvement in how we assess the normative status of political communities, if there's a clear payoff to adopting that approach, then it will have to be true that the contrast modus vivendi sets up between itself and traditional forms of liberal moralism is sharp and sustainable. In what follows, I'll suggest that while there is much in the modus vivendi approach that improves on liberal moralism, its account of legitimacy cannot in the end abandon a certain residue of moralism – in particular, moralism's emphasis on human rights possessed by all persons. So, while modus vivendi importantly draws our attention to a set of questions liberal moralists have tended to overlook, the contrast between the two may not be as resolute as it is often presented.

3. MORAL ACCEPTABILITY

Theorists who see modus vivendi as an improvement over liberal moralism overwhelmingly agree that political arrangements constituting a legitimate modus vivendi meet some criterion of acceptability beyond the mere provision of order and stability.⁷ I say “overwhelmingly” because there are some theorists who deny that the modus vivendi approach requires anything more. Matt Sleat, for example, suggests that providing order and stability is not only a necessary condition of modus vivendi but a sufficient one as well. “For better or worse, modus vivendi is a theory of political order that gives priority to peace over all other values or goods. A ruler who provides order is a legitimate ruler” (Sleat 2018, p. 200). But few defenders of modus vivendi follow Sleat in this vein (and Sleat himself allows that the position he defends might be better construed as a version of realism instead). Most accept that along with providing order and stability, political institutions need also meet certain criteria to qualify as a legitimate modus vivendi.⁸ It's not going too far to say that there is no more important task for those who advocate modus vivendi as an account of legitimacy than to spell out this criterion of acceptability in a convincing way, that is, one that avoids incorporating so much moral content that it becomes indistinguishable from liberal moralism while still providing a criterion with which to reject as legitimate the despotic rule that marks deeply repressive regimes.

There are two main routes by which advocates of modus vivendi seek to capture this criterion of moral acceptability. The first stresses that citizens subject to political arrangements must in some sense accept those arrangements. The second articulates minimal substantive moral conditions that political institutions must meet. It may, of course, be true that these criteria are connected;

after all, citizens are more likely to accept institutions that provide important basic goods. Still, the two approaches are distinct, and determining which of them to emphasize is a central task for the defense of *modus vivendi*. I shall turn to this question in a moment.

Before doing so, a quick comment on one other element that some have stressed as key to determining whether a *modus vivendi* obtains. Some reserve the idea of a *modus vivendi* for political institutions that result from an actual compromise among the various parties subject to political institutions. This idea seems to me mistaken. As Fabian Wendt (2018) has noted, *modus vivendi* solutions are sometimes imposed (after war, for example), and in such cases, their not resulting from an actual compromise does not seem to have direct relevance to their moral acceptability. True, their resulting from an actual compromise may make arrangements either more likely to be accepted by parties or more likely to ensure that the moral minimum is honored. Were this so, it would raise the intriguing prospect that despite the perception of *modus vivendi* as an approach that permits a wide range of legitimate political arrangements, it in fact recommends specific institutions that increase the possibility for citizens to have direct input into political decisions in the manner actual compromise demands.⁹ But in any such argument, it would still be those other considerations (acceptance by citizens or assurance of the moral minimum) which determine legitimacy, so we might just turn to those directly.¹⁰

3.1 The Acceptance Criterion

I use the term “acceptance” to refer to the idea that those subject to political institutions on the whole accept those institutions as authoritative. John Horton, who has done much to advance this idea, is admirably candid in acknowledging that the criterion is inevitably indeterminate; there are no necessary and sufficient conditions that clearly indicate when it is met. What is essential, he says, is that political arrangements “be broadly accepted by those subject to them” (2010, p. 439), that sufficient numbers of citizens demonstrate “a kind of shared willingness to acknowledge the legitimacy of some particular set of political arrangements” (2010, p. 438).¹¹ Such acceptance is most likely to come about when citizens find that they can lead what they see as tolerably good lives under those conditions and that the basic institutional arrangements are not at odds with what Horton calls their “most deeply cherished beliefs.”

One great virtue of this approach is its ecumenicism with respect to the various reasons persons may have for endorsing their institutions: they may be motivated by the belief that those institutions are morally ideal, by their view that those institutions advance their interests, by a self-conscious embrace of tradition, by an uncritical endorsement of the status quo, and a range of other reasons.¹² Critically, though, Horton follows Williams in insisting that

the acceptance needs to be freely given. This condition is vital in ruling out acceptance secured by coercion, domination, and the like, as well as acceptance that is, in Horton's words, "the product of clear, willful, systematic, and comprehensive deception by those with political power" (2010, p. 439).¹³

One immediate worry this last requirement raises is that it may suggest that liberal states (marked by strong protections of free expression, democratic equality, and the like) are more likely to offer evidence that freely given acceptance obtains, which would threaten to lend liberal institutions a kind of normative priority again at odds with the ecumenical spirit of *modus vivendi*. I shall not pursue this worry here,¹⁴ but will instead draw out a deeper point it raises about the acceptance criterion *vis-à-vis* moral minimalism. If we grant (i) that genuine acceptance differs from coercion by virtue of certain conditions obtaining (political subjects must be free to express dissent, have reasonable options to bring about change within their communities, etc.), and (ii) that only genuine acceptance can legitimate political arrangements, then we are driven to the conclusion that (iii) the conditions necessary for *modus vivendi* include those that make possible the expression of genuine acceptance. But this would mean that those conditions (however specified) have logical priority over the acceptance criterion in judgments of legitimacy, bringing us closer to something like the alternative account stressing minimal conditions.

A more serious drawback with the acceptance approach is that it rests heavily on persons' attitudes, judgments, and the like. It's concerned not so much with what people do but with how they do it (i.e., with the motivation with which people follow laws, maintain public order, and so on). But such judgments are extremely difficult because they don't rest on evidence that is readily observable. To be clear, the challenge is not in distinguishing the various reasons for which people might endorse their arrangements (those appealing to moral values, self-interest, tradition, etc.); as mentioned earlier, *modus vivendi* is agnostic on such distinctions. The challenge instead is determining whether we have genuine acceptance as opposed to the invidious acquiescence to power that Horton and Williams worry about. In a recent essay, Horton has attempted to navigate this worry by emphasizing certain behavioral markers that distinguish real acceptance from mere conformity to political arrangements that people might see as deeply alienating. His account stresses "how [people] act or what they do" and encourages the question "do they [...] give every appearance of accepting the authority of the [existing] political institutions and practices?" But given that there are many reasons why citizens might seem to endorse the framework of their political institutions while still regarding them as deeply problematic, alienating, and lacking real authority, I'm skeptical that this account can deliver the kind of legitimating acceptance required. Horton concludes his behavioral account by asserting that "only those who act in ways that explicitly dissociate themselves from the established political order are

clear ‘dissenters’, excluding themselves from the ongoing *modus vivendi*” (Horton 2018, p. 140). But where the costs of such dissociation are so severe, refusing to pay them shouldn’t be taken as demonstrating real acceptance.

Rejecting the stress on inaccessible internal states might lead us to ask a different set of questions about the overall political arrangements. Do people have the opportunity to meet their subsistence needs? Do they have a reasonable sphere of religious liberty? Do they have some way to express, free from sanction, their attitude toward dominant political institutions and rulers? And so on. True, there may well be disagreement over these matters as well, but the disagreement here will be about how to construe these objective standards. That’s a quite different problem from the one that involves access to other people’s internal states. Indeed, since we often gauge whether acceptance is genuine by reference to a situation’s observable features (what penalties exist for expressing dissent, what other options are available, etc.), this again shows how judgments about the mental will sometimes hinge on the observable. This brings us closer to the moral minimum approach.

3.2 Moral Minimalism

The other main approach for identifying *modus vivendi*’s criterion of moral acceptability involves specifying minimal moral conditions that states need to meet. I have just mentioned some of them (some degree of religious freedom, access to basic subsistence goods for all, some possibility of affecting the arrangements under which one lives), but I am not here concerned to defend the content of that approach, and a certain amount of reasonable disagreement here is inevitable. Instead, I want to defend moral minimalism against two important objections that it invites: that it’s inconsistent with the central insight driving *modus vivendi*, and that it lacks the resources to ground the moral criteria it invokes.

The charge of inconsistency says that moral minimalism simply reinstates the very problem *modus vivendi* aims to resolve. Here’s the idea. *Modus vivendi* is in large part a response to the deep pluralism about values that marks various societies and the fact that this pluralism undercuts the possibility that political institutions will closely align with many citizens’ deepest commitments.¹⁵ To secure buy-in from the various citizens subject to them, *modus vivendi* recommends that political institutions strive as far as possible to avoid the sort of normative claims built into the moral minimalist approach. The worry, then, is that in relying on conceptions of the moral minimum, *modus vivendi* would remain embroiled in debates over the normative issues that divide citizens and so would not escape the problem motivating it. As Matt Sleat argues, a *modus vivendi* that appeals to moral minimalism thus “undercuts its ability

to remain genuinely neutral between all parties who will be subject to that order” (Sleat 2018, p. 192).

As a first response to this worry, it’s not clear how far the success of the *modus vivendi* state hinges on its remaining neutral among parties subject to it. What seems to matter more (as Horton notes) is whether persons subject to political institutions enjoy peaceful and orderly conditions that allow them to lead lives they see as fulfilling. Regarding that issue, the question of whether political arrangements model neutrality is, strictly speaking, not directly relevant. Granted, if the slight departure from neutrality involved in endorsing the moral minimum leads a substantial number of citizens to reject the rules of their political association, threatening the conditions of peaceful order, then from the *modus vivendi* standpoint that becomes a critical consideration. But where doing so is not met with deep opposition, there’s no reason for *modus vivendi* theorists to object. The concern that moral minimalism violates neutrality, then, has teeth only if we think that all departures from neutrality are likely to create substantial opposition. And while it’s true that various non-neutral measures (e.g., those celebrating robust liberal ideals of self-creation and personal autonomy) have engendered such resistance, it’s not clear that the sort of departure from neutrality involved in securing the moral minimum must do the same. The question of whether subjects can create lives they find worthwhile under extant political arrangements is not strictly dependent on the state’s achieving maximal neutrality.

A further response to the objection that moral minimalism is inconsistent with *modus vivendi*’s normative parsimony is to ask how those who advance it will themselves derive the normative criterion that *modus vivendi* requires without taking sides in some moral debate. The cleanest way for *modus vivendi* advocates to import normativity without venturing into contested normative terrain is to invoke the realist claim for the intrinsic normativity of the political. The central idea behind this strategy, which I’ll call the internalist approach, is that certain normative constraints can be derived from the nature of politics itself, that they are built into the kind of human interaction that politics fundamentally is. Since many advocates of internalism invoke Williams’ account of the Basic Legitimation Demand (BLD) in advancing this sort of argument, I will work within that framework as well.

By the BLD, Williams has in mind the requirement that political power must be broadly accepted by the people over whom it is exercised. To say that this normative requirement is internal to the nature of politics itself is to say that meeting the BLD is conceptually required in order for there to be politics, that is, that the problems to which politics is the solution are not solved *politically* unless they are solved through institutions that meet the BLD.

The problem, however, is that even if we accept this connection, the internalist account does nothing to explain why anyone should care about the BLD

being satisfied, because it does nothing to explain why solving the relevant problems politically is better than solving them through the imposition of oppressive rule. What can the internalist say to the successful despot and his cronies who respond, “Yes, our way of exercising power here does not satisfy the BLD, but that’s no objection because we are not interested in reaching a ‘political’ solution”? The internalist cannot say that it’s normatively preferable for people to be ruled by institutions they broadly accept as opposed to those they do not, or that satisfying the legitimacy requirement is in itself normatively superior to its not being satisfied, because both advance a normative claim about the political from a position outside the domain of the political. Internalism, in short, can’t explain why political solutions are better than non-political ones. It may be, of course, that more people’s interests will be better protected under political arrangements than under despotism, but if that’s a reason for politics over despotism, it again rests on a normative claim from outside politics (and one that some Nietzscheans, for example, would regard as deeply misguided): that is, that conditions in which more people’s interests are strongly protected are better than those where fewer are.

The failure of internalism alerts us to a deeper problem for those who see moral minimalism as a betrayal of *modus vivendi*’s attempt to avoid contested normative claims. I’ve suggested that one motivation for the acceptance criterion as a marker of legitimacy is a concern to respect the particularities of specific communities and to avoid the imperialism of moralist norms. But right here we need to distinguish two things: (i) the question of whether the acceptance criterion is satisfied in some particular context, and (ii) the claim that a regime is legitimate only when the acceptance criterion is met. The first question moral reflection alone can never resolve; it requires attention to the conditions characterizing any particular community. In this way, it’s true that any such judgment of legitimacy will reflect particular factors. But, and this is the critical point, those contingencies determine only whether the criterion of legitimacy is satisfied; they do not affect the criterion itself. It’s claim (ii) that sets forth the criterion of legitimacy, and that claim is not itself reflective of contingencies, particularities, and the like. Instead, it tells us which contingencies and so on are relevant to a judgment of legitimacy. In this sense, advocates of the acceptance approach are also invoking a principle of normative appraisal that is independent of social contingency, reflecting the same sort of independent normative judgment as moral minimalism.

The important lesson here is that any criterion *modus vivendi* theorists invoke to distinguish legitimate regimes from the mere coercive imposition of stability has to draw on some supporting independent criterion and so can’t avoid taking sides on some contestable normative issue. How else can advocates of the acceptance criterion defend their criterion of legitimacy against those who reject it and insist that what makes political arrangements

legitimate is how far those arrangements align with God's will, say, or make possible the achievement of distinctive forms of human excellence, or align with ancestral traditions? The options for *modus vivendi* are two: (i) go all in with Hobbesianism and accept that the only criterion is social order, however repressively it might be created, or (ii) face up to the fact that any account we offer of the conditions of legitimacy will rely on free-standing norms with which some may disagree. If moral minimalism's appealing to such norms counts as an objection, then all non-Hobbesian options are similarly problematic. To be clear, I am not saying that *modus vivendi* must rest on moral values identical with those that characterize liberal moralism. My point is that there's no way for *modus vivendi* to retain the normative criterion it needs without relying on moral considerations that are prior to politics and that establish terms for the legitimacy of such regimes. If this is moralism, then political normativity depends on moralism, and moral minimalism can't be faulted on those grounds.¹⁶

The other main charge against moral minimalism is that, given deep pluralism about values, it lacks adequate grounds for defending the criteria it invokes as a criterion of legitimacy. The response to this is implicit in what I have just said: those who advocate moral minimalism as a criterion for legitimacy may appeal to whatever resources advocates of the acceptance criterion would invoke in defending their preferred criterion of legitimacy. Advocates of the acceptance criterion believe that the fact that people accept their institutions confers the normative status of legitimacy on those regimes. Advocates of moral minimalism believe that the fact that political regimes provide certain conditions for their subjects confers the same status. The general structure of the normative inference (though not the content) is the same in either case, as each asserts that a certain fact of the matter justifies a normative judgment. The question, then, is not whether there's anything wrong in the logic of grounding the normative property of legitimacy on the fact of minimalist conditions being met. The question instead is whether we are right to conclude that satisfying the conditions of moral minimalism provides states with the standing that the ideal of legitimacy captures.

I follow Rawls in thinking that such judgments do not in the end rest on canons of pure reason. (It should be clear that this invocation of Rawls does not commit one to liberal moralism.) In *The Law of Peoples*, after setting forth criteria that he believes any decent people must meet (Rawls uses decency to capture what I'm getting at with moral minimalism), Rawls acknowledges:

At no point are we deducing the principles of right and justice, or decency [...] from a conception of practical reason in the background [...] The criteria for these three normative ideas are not deduced but enumerated and characterized in each case. Practical reasoning as such as simply reasoning about what to do, or reasoning

about what institutions and policies are reasonable, decent, or rational, and why. There is no list of necessary and sufficient conditions for each of these three ideas, and differences of opinions are to be expected. (1999, pp. 86–87)

The lack of precision here interestingly parallels the lack of precision in the idea of acceptance Horton advances, and we should not conclude that if moral principles can't be defended through an analytically deductive argument, they therefore can't be defended. The normal resources of moral argument – other judgments we confidently make, positions we cannot imagine displacing, sensitivity to different judgments that other apparently sane people reach, and so on – apply here as in other contexts of moral judgment. So, while I cannot here mount the argument that moral minimalism coheres best with the range of moral judgments we make, my point is that whatever resources exist to make the case for the acceptance criterion are available to moral minimalism as well.

My invocation of Rawls in defending the connection between moral minimalism and modus vivendi raises the prospect that modus vivendi and at least some versions of liberalism may not be so sharply opposed. Two aspects of Rawls' argument in *The Law of Peoples* are especially worth noting in this context. First, Rawls there sharply distinguishes between states that satisfy liberal conceptions of justice and states that do not but are nonetheless decent in the sense he intends. But even as he makes this distinction, he insists that any regime that meets the lower threshold of decency thereby merits equal standing in the community of states, and should not be treated as inferior in the sense that arose when considering the payoff question.¹⁷ If Rawls' position here is sustainable (i.e., if judgments of relative justice need not entail any difference in how other states are treated), and if his position in *The Law of Peoples* genuinely qualifies as liberal, then some of the urgency for adopting the modus vivendi approach would diminish.¹⁸

The other aspect of Rawls' argument in *The Law of Peoples* that rewards attention concerns his example of an imagined Islamic theocratic country, Kazanistan, that meets the criteria for decency. Though it falls short of liberal ideals of freedom and equality, its commitment to minimal human rights, some degree of political voice for all its citizens, and a vision of the common good that encompasses all citizens is sufficient to merit moral standing equal to that of liberal regimes. Rawls' example here is strikingly similar to one that Horton has offered in his defense of modus vivendi (2021). He too imagines a society in which a commitment to Islam carries certain privileges but where all citizens, regardless of their endorsement of Islam, have access to certain minimal goods, including religious freedom, guaranteed material support, some measure of political participation, and the like. Horton calls this a tolerant modus vivendi, implying that there can be intolerant ones as well.¹⁹

The juxtaposition of Rawls and Horton on this issue poses a question for *modus vivendi* theorists who would reject moral minimalism: Would they grant any significant moral difference between the tolerant *modus vivendi* Horton describes (in which all citizens are secure in various important rights) and an intolerant *modus vivendi* where they are not? To deny any significant difference is to say that a society in which persons are protected in the ways just enumerated is not preferable to one where they are not. This strikes me as deeply implausible and risks putting *modus vivendi* beyond the pale of normal moral discourse. More likely, the advocate of *modus vivendi* would agree that the more tolerant country is in those respects preferable, but would then insist that such a judgment should not play any substantial role in how the countries are treated. This response would show that we can make important moral distinctions across regimes without those judgments affecting our view of their relative legitimacy. If so, *modus vivendi*'s impatience with liberalism's interest in judgments of relative justice might be substantially eased.

These ideas require far more discussion, I realize. But they raise the possibility that liberals might maintain their strong interest in questions of justice while remedying the aspects of their approach that concern *modus vivendi* theorists. They might maintain both (i) that certain conceptions of justice are superior to others, and (ii) that in terms of how we should treat other regimes, what matters is simply reaching a threshold of moral decency in which all citizens are equally accorded the minimal treatment that squares with the moral status all persons possess. If that position is coherent, the distance between *modus vivendi* and at least some forms of liberalism may be less than is normally assumed.

3.3 Human Rights

I've suggested both that *modus vivendi*'s conception of legitimacy must invoke norms independent of politics and that those norms mandate minimal conditions that must be secured for all political subjects. This suggests that such norms can be understood as specifying minimal human rights with universal scope. Since some advocates of *modus vivendi* have expressed impatience with the notion of human rights, let me say something in defense of that idea.

A useful point of departure is John Gray's influential account of *modus vivendi* (Gray 2000). After distinguishing what he sees as two distinct strands of liberalism (one founded on an ideal of moral consensus, the other on a vision of peaceful coexistence among citizens who remain profoundly divided on fundamental moral ideals), Gray goes on to insist that, as a condition of moral legitimacy, regimes must have "effective representative institutions, a government that is removable by its citizens without recourse to violence... [and must] assure the satisfaction of basic needs to all and protect minorities

from disadvantage.” As for those “in which genocide is practiced, or torture institutionalized, that depend for their continuing existence on the suppression of minorities, or of the majority, which humiliate their citizens or those who coexist with them in society, which destroy the common environment, which sanction religious persecution, which fail to meet basic human needs in circumstances where that is practically feasible,” he declares flatly, “they are illegitimate, however long-lived they may be” (Gray 2000, p. 107). Gray’s insistence that political communities meet such minimal conditions seems unassailable. What’s puzzling is how he understands the point he’s making.

The most plausible way to construe Gray’s claim is as reflecting the judgment that all persons are owed certain treatment by virtue of their being human (i.e., that they are owed it as a matter of human rights). Gray, however, seems reluctant to grant this point, casting doubt on the usefulness of universal human rights and suggesting at one point that such rights are better understood as “convenient articles of peace.” But this sort of functionalist account of human rights, according to which the notion is useful in helping avoid war, seems at odds with their role in Gray’s argument, where they are presented as straightforward moral requirements. Indeed, if there were a regime that managed to secure peace among citizens while denying these rights to certain citizens, then on the “articles of peace” reading, there would be no clear grounds for moral complaint. The articles of peace reading throws us back on the thoroughly Hobbesian reading of *modus vivendi* that most of its advocates seek to avoid.

The desire to avoid invoking a familiar concept of human rights leads to a further oddity in Gray’s account, as he insists, “there can be no once-and-for-all list of such [human] rights, since the content of these [universal] evils alters with changes in human life” (Gray 2000, p. 114). How should we take this? It’s possible that Gray is making the point captured in Bernard Williams’ jibe about the uselessness of playing Kant at the court of King Arthur (Williams 2005): What point can there be in asking whether political regimes of the deep past meet our criteria of legitimacy? If so, we can grant the idea and simply move on; too often, the question about the alleged timelessness of human rights is a distracting canard. What matters now is what we see as fixed poles in our thinking about what all human beings around the globe are owed: that they all have a right to an opportunity to meet their basic survival needs, to some degree of religious freedom, to be protected against rape and violent assault, and so on.

Gray agrees, as we’ve seen. What really motivates his position, I think, is not a rejection of the idea of human rights but his frustration with an unwarranted expansion of human rights at the hands of liberal moralists. For Gray, that frustration reflects his commitment to value pluralism, conjoined with a sense that human interests (and so human evils) change substantially over time,

such that no definitive list of the rights connecting to them can be made good once and for all. As for the pluralist commitment, that represents a position that is no essential part of *modus vivendi*. And as for the claim that interests change over time, it's hard to imagine that there was ever a time when torture, enslavement, subjection to rape, persecution, and the like, did not constitute great human evils. Gray no doubt believes that a firm commitment to securing the more maximal rights that many liberal moralists stress will generate a number of social ills we could otherwise avoid – that the cure will be worse than the disease, so to speak – and in some contexts he is surely right. But a position that accepts human rights can resist their improper expansion and can as well recognize that such rights may need to be balanced against one another, in ways that may entail less than maximal protection for certain rights at certain moments.

Liberal moralism is characterized by an ambitious and expansive set of such rights. That's a real and substantive contrast with Gray's account. For this reason, it seems to me wrong to suggest, as some have, that Gray's *modus vivendi* is ultimately grounded in values shared with the Enlightenment-inspired liberal moralist tradition.²⁰ Gray's approach, for example, generates no grounds for criticizing a range of regimes that many such liberals would judge deficient. The minimalism he advocates aims to comprise elements common across a range of decent moral frameworks and to be more inclusive than liberal moralism. But, I'm arguing, it cannot do without some notion of human rights. The question is not whether to endorse an account of legitimacy that embodies a notion of human rights, but rather which human rights should figure in such an account.²¹ The problem is not with the concept of human rights, we might say, but with certain conceptions.

This, in turn, means that *modus vivendi*, even as it does not demand that political institutions model the robust conception of persons as free and equal that liberal moralists stress, is committed to *some* conception of the moral equality of citizens, some moral status possessed by all persons everywhere that sets constraints on permissible political arrangements. In rejecting the overly robust way that liberal moralists register this equality, advocates of *modus vivendi* need not reject the idea that acceptable political institutions should conform to it in some way. Here again, the distinction between *modus vivendi* and liberal moralism is less drastic than we might have thought.

4. MODUS VIVENDI, HUMAN RIGHTS, AND POLYCENTRICITY

I turn now to some of the implications of the preceding argument for our understanding of polycentricity, an area which (like *modus vivendi*) has seen a substantial growth of interest in recent decades. By polycentricity I have in

mind what Paul Dragos Aligica has described as “a social system of many decision centers having limited and autonomous prerogatives and operating under an overarching set of rules” (2014, p. 37), one marked by “decentralized, federalized, multijurisdictional governance structures” (2014, p. 40). As Adam Martin puts it, “Polycentricity means that decision-making units are *independently constituted*. Polycentric systems are comprised of ‘fragmented’ and ‘concurrent’ authorities. [...] In a polycentric system, *there is no final authority* to which all other authorities submit” (Martin 2015, p. 80, emphasis in original). Much of the most interesting work in this area has been done by theorists working in the fields of economics, law, and political economy, and with respect to those perspectives (many of which draw on careful empirical research) I will have little directly to say. My interest is in how the logic of polycentricity stands vis-à-vis certain central issues connected to *modus vivendi* as an approach to political theory.

One might think such an inquiry should begin with the central argument favoring polycentricity and then assess how the *modus vivendi* approach stands vis-à-vis that argument. But that would be a mistake, for there is no unique grounding on which the case for polycentricity rests. Rather, we can identify various considerations that recommend polycentricity, and the connections across that idea and *modus vivendi* (extending to questions about liberalism and the discourse of human rights) are differently shaped by different considerations. I will distinguish three distinct ways of construing polycentricity connected to three different arguments for it. Sections 4.1 and 4.2 present two versions of what I call bounded polycentricity. Section 4.3 discusses what I’ll call unbounded polycentricity.

4.1 Efficiency and Common Goals

The first argument for polycentricity is the least controversial in terms of the values to which it appeals. It defends polycentricity as the best way of delivering some good, within a discrete and bounded context, more effectively than arrangements involving centralized loci of authority. One important context where this question arises is the need to protect common-pool resources from overuse. In her pioneering work, Elinor Ostrom has challenged the long-standing view that some form of centralization is needed in such contexts because in its absence “the total of resource units withdrawn from the resource will be greater than the optimal economic level of withdrawal” (Ostrom 1990, p. 3). Ostrom rebuts this position by drawing on cases whereby “users overcome social dilemmas in order to sustain long-term use of common-pool resources” in ways that rely not on the centralization of power and decision-making but instead on the adoption of more polycentric approaches (Ostrom 2010, p. 654).

What's critical to note about such cases is that the overall goal (i.e., the preservation of commonly valued goods) is uncontroversially the object of consensus, and the argument is that adopting polycentricity and moving away from centralized authority does a better job of advancing that goal. This is not to say that arguments for polycentricity in such contexts will be uncontroversial. There may be disagreements over how to read data, over how far the alleged gains that result from adopting polycentric approaches are due to the adoption of polycentricity as opposed to other explanatory factors, and so on. The point is just that in these contexts the case for polycentricity appeals to values around which there is deep consensus. The same holds for another instance that Ostrom cites (i.e., the advantages of a polycentric approach to combating crime). Note, though, that even if combating crime is an uncontroversial good, this second example begins to raise some complicating factors, since there may be other grounds on which objections can be raised against polycentricity even if one accepts the empirical claim for greater effectiveness in reaching that goal. For example, the creation and maintenance of polycentric institutions may require energy and expenses that could have been deployed to make other goods available, or might threaten other goods that are themselves of great value (e.g., decentralization in policing might risk increased instances of racial injustice). But since such worries may be raised concerning any approach (polycentric or not) that seeks to advance a range of social goods, there's nothing about polycentricity that makes it particularly vulnerable on this front.

Situating the first bounded argument for polycentricity vis-à-vis *modus vivendi* is complicated in two ways. To begin with, as just noted, the argument assumes consensus on both the central values at stake and the interests of the relevant parties: the question is finding the most effective way to achieve those. *Modus vivendi*, however, is grounded on an assumption that citizens clash powerfully in terms of their normative commitments and their interests.²² In this respect, the context characterizing the first case for polycentricity seems quite different from that assumed by *modus vivendi*, and this invites questions about how far the lessons from the former apply to the latter. Mitigating this concern somewhat, however, we should note that *modus vivendi* does assume that citizens have a shared interest in establishing conditions of peaceful coexistence within which they can lead worthwhile lives, so in this respect it may be that this first case of bounded polycentricity can usefully connect with debates over *modus vivendi*. To the degree that Ostrom-style arguments for polycentricity assume that the interests of all involved with those systems should be given equal weight, however, such connections may be harder to establish given that *modus vivendi* (though committed to equality in some sense, as I've suggested) is not committed to any robust principle of equality.

The other complicating factor is that the arguments for polycentricity I've just cited assume the context of stable political life.²³ It's a fair question,

then, how far polycentric solutions to challenges like common-pool resources depend on the existence of a stable political community as a background condition. If they do, the task of identifying terms of a *modus vivendi* might be logically prior to any case for polycentricity, and those terms might constrain otherwise desirable polycentric arrangements. But if political stability could be achieved through a thoroughly polycentric approach (a question I'll take on below), this acknowledgment of the need for political stability would not constitute a serious concession to the primacy of *modus vivendi*.

However we resolve that issue, the assumption of a stable political community constitutes a second way in which Ostrom-style arguments for polycentricity are bounded: in this case, not by agreement on a particular good, but by the context of a stable political community. This dependence would not make the case for polycentricity any less important; it would just draw boundaries to its application. A more radical and far-reaching possibility, however, is that polycentricity itself promises a model for achieving the sort of peaceful coexistence emphasized by *modus vivendi* advocates without the assumption of a state possessing centralized authority. On that hypothesis, polycentricity figures not just as one approach for solving problems within an already established centralized state, but as a quite different political model for achieving the goals of *modus vivendi*, one which dispenses with a state of the sort political theorists tend to assume. I explore this possibility in 4.3 below.

4.2 Group Differentiation

A second argument for polycentricity is exemplified by the claims various multiculturalists have made for according communities greater control over certain decisions that affect their members, often worked out in terms of group-differentiated rights. A representative and highly influential version of this approach is found in the work of Will Kymlicka (1989), whose argument for conferring certain powers on cultural communities follows directly from what he sees as the foundational liberal commitment to ensure that all citizens have equal opportunity to lead autonomous lives.²⁴ Here the logic of polycentricity extends to a kind of federalism, wherein certain powers otherwise possessed by an overarching authority are devolved onto smaller groups within a political community (perhaps alongside the granting of exemptions to policies that would create unfair obstacles for members of the community in question). Though such claims within liberal theory often invite questions about whether the permissions granted to discrete communities are consistent with liberalism's basic commitments, the approach here parallels the bounded nature of the Ostrom-type cases explored in the previous section. As with those, polycentricity is here advanced as a way to ensure a common good for all persons (equal opportunity to lead a flourishing life of autonomy), and so

in this sense again the polycentric approach is grounded in a common value taken as foundational in determining how political authority should be structured. Even as some powers traditionally exercised by a centralized state are dispersed across smaller communities, this is done only to advance (allegedly) uncontroversial goods. In this way, we arrive at a second, more elaborate vision of bounded polycentricity.

How does this second approach stand with respect to *modus vivendi*? In one major respect, it may appear inconsistent with the concerns of many *modus vivendi* theorists since polycentricity is recommended as a way to advance a specific value (in Kymlicka's case, personal autonomy) in a manner that *modus vivendi* calls into question. But if we return to our earlier point about neutrality, matters are less clear. We saw there that it's important to distinguish (i) the effectiveness of institutions in creating political arrangements that can bring about a satisfactory *modus vivendi*, from (ii) the different ways of justifying those institutions.²⁵ If the peaceful coexistence that *modus vivendi* theorists champion is best advanced by conferring on smaller communities powers that had heretofore been exercised by a centralized state, then *modus vivendi* advocates need have no objection in principle to the sort of multiculturalist measures Kymlicka recommends, even if Kymlicka's case for those arrangements invokes claims that *modus vivendi* theorists would disavow.

To put the point more provocatively, it's altogether possible that a state strongly committed to the equal protection of citizens' autonomy might best advance *modus vivendi* goals: The key question (and it's an empirical one) would be whether the measures that commitment entails bring about the social peace that *modus vivendi* theorists stress. It's also possible, of course, that endorsing the sort of bounded polycentricity Kymlicka recommends and creating conditions that allow for more localized group decision-making might either create opposition from other quarters or have cascading effects that threaten social stability, as more and more communities seek to chart divergent and sometimes clashing ends. If so, the sorts of measures I've been describing will work against *modus vivendi* goals.

The upshot is that how far *modus vivendi* would endorse a more federalist arrangement aligning with this second version of bounded polycentricity hinges on the specifics of the particular political context and related predictions about how social order and stability will be affected by measures like leaving more issues up to local decision-making, granting more extensive exemptions from universal policies, and so on. For this reason, we shouldn't think that *modus vivendi* in principle must either endorse or oppose the bounded polycentric approach that multiculturalists like Kymlicka describe. Since the issues are in part empirical, and not resolved at the level of political theory alone, the conceptual relationship between *modus vivendi* and the second case of bounded polycentricity is indeterminate.

4.3 Unbounded Polycentricity

A fundamentally different approach to the sort of normative disagreement that inspires *modus vivendi* theorists, and a radically different account of political authority, is represented by a third type of polycentricity, which I'll call unbounded polycentricity. Chandran Kukathas' *The Liberal Archipelago* represents perhaps the most thorough philosophical articulation of this position, and I shall take his account as exemplary. Though Kukathas approvingly invokes the term *modus vivendi* at several points in his argument, his position vis-à-vis the mainstream *modus vivendi* camp is ambivalent. He joins it in rejecting the primacy of justice that, he believes, dominates contemporary liberal discourse, stressing instead an ideal of "peaceful coexistence." And like many *modus vivendi* advocates, he is skeptical of liberal moralism's claim to have identified robust norms that substantially constrain permissible forms of social organization. But he departs from *modus vivendi* in claiming that the political model he endorses (what I'm calling unbounded polycentricity) has universal appeal and so constitutes a kind of blueprint for societies the world over. That model, again in sharp contrast to the general sweep of *modus vivendi* theorists, rests squarely on the supremacy of a single foundational value (i.e., freedom) that, Kukathas believes, should structure all political arrangements. These aspects of his account partly explain, I think, why his work has not figured more prominently in recent debates over *modus vivendi*. They also, I will suggest, point to some tensions between aspects of the overall *modus vivendi* account I've highlighted and more extreme commitments to polycentricity.

The central value animating Kukathas' account is the unrivaled importance of freedom of association, rooted in our fundamental interest in living in accordance with our conscience. "If there are any basic human interests," he says, "that interest is at a minimum an interest in living in accordance with the demands of conscience" (Kukathas 2003, p. 55). Strictly speaking, Kukathas is not here asserting a fundamental right to live according to one's conscience, but on an interest-based account of rights such a right closely follows, and this reading closely aligns with his subsequent recognition of "an inalienable right" to exit whatever community one inhabits (p. 96). On his account, a properly constituted political society will thus be one in which political institutions maximally respect that fundamental interest, one marked by a range of associations reflecting the free choice of individuals to be governed by norms they endorse. Such a society should be understood as "not a hierarchy of superior and subordinate authorities but an archipelago of competing and overlapping jurisdictions" (p. 5) containing "a multiplicity of authorities, each independent of the others, and sustained by the acquiescence of its subjects" (p. 7). Political society should thus be modeled as a commons governed by rules that have evolved over time without any single locus of power becoming supremely

dominant, one that “acquires the character of a public space without a sovereign power” (p. 132). The overall vision is of society as a collectivity of smaller associations, each of which exercises maximally unimpeded jurisdictional authority over their members in accordance with their own distinct norms, held together by loose terms of political association linking each to the others.

The relatively austere picture of the political community that Kukathas describes invites a range of objections. Critics may worry that it does not do enough to ensure the viability of vulnerable communities and associations, for example, or that it abandons the ideal of social unity and encourages social fragmentation, or overlooks important issues relating to the distribution of power. While these are important concerns, I want instead to raise worries about the internal coherence of Kukathas’ approach and, in doing so to ask some questions about how far unbounded polycentricity can be reconciled with *modus vivendi*. I’ll begin by discussing an aspect of Kukathas’ model that strikes me as importantly unclear, and will then move on to two critical steps in his argument that seem problematic given his own commitments and that show the importance of a kind of moral minimalism in constraining the aspirations of unbounded polycentricity.

I begin with a question about how exactly the political community that Kukathas defends would work. My concern is with cases where someone is a member of various associations whose governing norms are at odds with one another, a possibility Kukathas readily acknowledges: “Any individual in society is going to find himself subject to the authority of several different groups or associations, whose rules or norms will govern his choices by defining what he may and may not do” (p. 143). In such cases, it’s not clear what sanctions are permissible for someone who acts in ways permitted (perhaps even required) by one such association but forbidden by another. The worry here is familiar from debates over cultural relativism (i.e., what norms apply to a person who inhabits several cultures?), but since we are dealing not just with moral judgments but with political practice, the pressing questions lie elsewhere. Kukathas suggests that the offended group may exclude the individual from membership (and presumably apply whatever sanctions its governing rules permit), but what exactly is permitted here? Geographical expulsion? Seizure of property? Denial of essential services? And what exactly happens when the penalties one group seeks to impose (consistent with its own constitutive rules as an association) are at odds with protections guaranteed by another? Since Kukathas recognizes that individuals may be subject to the authority of different groups, the scenario is hardly inconceivable. The solution is not apparent.

Let’s imagine, however, that the rules that have evolved to maintain order among associations with divergent norms specify methods to resolve cases in which a single person inhabits different communities. This possibility seems a natural extension of what Kukathas says about a slightly different case, one

where members of one association must interact with members of another. “To the extent that they will have to interact, they will have to abide by mutually accepted laws, and to accept the authority of some third party who will adjudicate disputes” (p. 143). This gesture to a third-party adjudicator raises my first worry about the internal stability of Kukathas’ approach.

The worry involves the threat of regress. Imagine that one of the disputing groups does not accept the judgments of that third party. Now either the third party has final authority in this case, or it does not. If it does not, there would need to be a fourth party to whom an appeal is made. But any such appeal would just invite the initial worry (either the fourth party has final authority or not, and so on). To avoid the regress, then, there must be a final authoritative body whose resolution applies to all groups whether they wish to accept that judgment or not. But now we seem to be moving away from unbounded polycentricity towards something more like a centralized body with final authority over the various associations. At one point Kukathas seems to confirm this reading, saying that the role of the state “is to serve as an umpire who attends to questions that inevitably arise in a society, composed as it is of many communities and associations, and attempts to preserve the order in which these groups can coexist” (p. 213). The very next sentence, however, undercuts that promise: “it is, however, only *an* umpire – not *the* umpire” (emphasis in original). My worry here is just the one Hobbes famously expressed in *Leviathan*: to have only a group of umpires but no final umpire seems a recipe not for the resolution of conflict but for its continuation.

My suspicion is that Kukathas’ interest in multiplying umpires, and in construing third-party authority by appeal to the mutual interactions of such umpires, reflects his strong interest in combating a vision of a unitary state committed to implementing robust partisan moral ideals against which many subjects will bristle. But there is a middle ground between such projects of cultural construction, on the one hand, and an account which imagines political community as bounded by no final authority, on the other. That ground is occupied by a *modus vivendi* state that claims conclusive authority over all its citizens but in securing the conditions of social order is committed only to the less partisan norms that characterize moral minimalism.

The importance of institutions that enforce minimal norms only grows when we turn to Kukathas’ treatment of the hugely important right of exit, which follows from the unmatched importance of living in accord with one’s conscience and brings us to my second worry concerning the internal coherence of Kukathas’ account. For Kukathas, “the right to leave the community [...] is an inalienable right, and one which holds regardless of whether the community recognizes it as such” (p. 96). But after acknowledging the inalienable right of exit, Kukathas denies that a person has “any fundamental claim upon others to ensure that he has the capacity to *join* a particular group or community, to

remain within that group, or to *leave* it. Different associations of people take different views about what can rightly be expected from others, and about what persons and communities are owed” (p. 97, emphasis in original).

What’s difficult to reconcile here are (i) the recognition that all persons possess an inalienable right to exit their communities, and (ii) the denial that this right gives rise to any duty upon others to ensure that persons can exercise that right. If all persons possess that fundamental right, then either others have some duty to allow them to exercise that right or they don’t. If they don’t, then it’s a rather strange conception of a basic right, on par with the Hohfeldian liberty right to life that people possess in Hobbes’ state of nature, in which one’s right to life is not violated even if one is killed by another. Stranger still, if a person’s having a right is compatible with others being under no obligation to help fulfill that right, then it’s unclear why a community that denies its members the right to exit does anything wrong, even though Kukathas clearly suggests it would be acting impermissibly. Any such claim of wrongdoing makes sense only if we attribute to the community *some obligations* following from their members’ rights (even if only the obligation not to prevent someone from leaving). And where any community does seek to prevent its members from leaving, or creates unreasonably high costs for doing so, it seems reasonable that duties correlating to the fundamental right to exit might fall on those outside the community.

With this, we come to a critical issue regarding the obligation to ensure human rights (and moral minimalism more generally) and the idea of unbounded polycentricity. I have been arguing that, given the grounding of Kukathas’ brief, he cannot acquiesce to conditions in which people lack adequate protection for essential rights reflecting their fundamental interest in living according to their conscience. His account must, I think, recognize that others have duties to redress that situation. However, his overall account of unbounded polycentricity does not lack the resources to address that worry in a manner that maintains its distance from centralized state authority, as I’ll suggest now.

Unbounded polycentricity, its advocates may say, is marked not by an overall *diminution* of authority as compared with familiar approaches to political authority but by a *redistribution* of authority across bodies other than a centralized state. On this approach, though there could be various bodies with authority to ensure the moral minimum across different associations (and so address the worry I’ve just been raising), there needn’t be any single body (like a centralized state) possessing such authority. Such a view is implicit in those theorists who downplay the idea of the state as the sole institution with genuine coercive power over citizens. Filip Rentjens, for example, denies any “empirical distinction between state law and non-state law” and attributes that distinction to “the state’s hegemonic project (Gramsci) and the ensuing perceived

uniqueness of the state in the political order” (Rentjens 2016, p. 350). In important fieldwork documenting conditions in Afghanistan, Jennifer Murtazashvili has stressed that relations of governance are maintained by both formal and informal institutions, the former created by state law and the like, the latter being “socially shared rules, usually unwritten” (Murtazashvili 2016, p. 9). “There is governance in rural Afghanistan,” she says, “although its origins lie outside of the formal apparatus of the state” (p. 1). Keeping these observations in mind helps us see how it might be the case that while in “a polycentric system no one has an ultimate monopoly over the legitimate use of force” (Aligica 2014, p. 48), such a system can at the same time provide an ongoing social world that meets the conditions of moral minimalism and remains broadly ordered, rule-governed, harmonious, and the like.

In its confidence that satisfactory conditions of social order can be achieved through mechanisms other than a unified and powerful sovereign, a position farther from the spirit of Hobbesianism cannot be imagined. Still, it does not follow from this that there is anything in this account of unbounded polycentricity that *modus vivendi* advocates must reject; Hobbes may just have been wrong in believing that the absence of a centralized state could result only in destructive anarchy. As I’ve suggested throughout, *modus vivendi* does not entail any specific set of political arrangements and instead welcomes any that tolerably maintain peace and social order. Given its openness to the contingent and particular, as well as its reluctance to enthrone any single form of political life, there’s no necessary incompatibility between *modus vivendi* and unbounded polycentricity. If the latter can deliver social order in the absence of a familiar centralized state, then from the *modus vivendi* perspective that’s all well and good. To some degree, this is an empirical matter, as I said before, one on which political theorists like me are not especially qualified to pronounce.²⁶ Still, there are some general fault lines here that are worth noting, and I’ll conclude by discussing them briefly.

5. CONCLUSION

Though I’ve just suggested that there is no logical incompatibility between *modus vivendi* and unbounded polycentricity, the substantially different starting points of the two projects cannot be ignored. *Modus vivendi* theorists (perhaps in reaction against the moralist emphases on ideal theory and moral consensus) begin from a view of human community as centrally marked by conflict and the perennial threat of disorder. Against those tendencies, they stress the unmatched role of political institutions in creating the order and stability within which people with diverse commitments can live peaceably alongside one another. They tend as well to view the creation of order and stability as highly fragile achievements, aiming in their own work to remind

readers of the critical but too-often overlooked task of maintaining institutions that preserve those conditions. To some extent, this disposition aligns them with figures like Burke and Oakeshott, and it helps explain the deference they're likely to show to a wide range of functioning political systems. In all these respects, *modus vivendi* is strongly anti-utopian, believing that the problem of peaceful co-existence requires constant vigilance and is never solved once and for all. Adapting Weber's metaphor, politics remains the strong, steady, slow boring of hard boards.

Advocates of polycentricity proceed from a different place. A recurrent theme in much of that work is the possibility of productive, ordered, and harmonious interactions that can come about without the intervention of, or at least with much less intervention from, a centralized state. In particular, polycentrists highlight the positive contributions that trust and cooperation can make to the effective resolution of social problems, in contrast to theorists who model human interactions in overly stylized ways that ignore the substantial presence of cooperative behavior among real-life human beings.²⁷ Their work suggests both that there are greater possibilities for productive and stable human interactions across individuals than *modus vivendi* theorists tend to recognize, and that we should work toward increasing such trust where possible.

So contrasted, *modus vivendi* and polycentricity can be seen as two quite different reactions to Hobbes' famous argument in Chapter 13 of *Leviathan*. Where *modus vivendi* theorists see Hobbes as teaching an urgent lesson about the ever-present threat of social disorder facing individuals in the absence of a state, polycentrists are more likely to challenge his picture of unchangeable human dispositions setting individuals destructively at odds with one another. As I've noted throughout, this divergence by itself does not mean that the overall *modus vivendi* approach cannot be brought into productive conversation with polycentricity. But it does indicate, I think, a central point of contention that will have to be resolved for that to happen most fruitfully.

NOTES

1. Geuss is unflinchingly skeptical of the idea that anything very useful can be said about politics at the level of theory (e.g., Geuss 2008). Though he and Bernard Williams are perhaps the most prominent realist critics, it's revealing that Williams' work is often cited with strong approval by those who position themselves within the *modus vivendi* camp, while Geuss' voice does not loom large in those debates. The fact that Williams' work has been interpreted as retaining certain distinctive liberal commitments (e.g., Hall 2015), a criticism that seems difficult to level against Geuss, further indicates that the camps of realism and of *modus vivendi* do not neatly overlap.

2. In her introduction to an important anthology of essays exploring *modus vivendi*, Manon Westphal characterizes the shift from an emphasis on justice to an emphasis on legitimacy as a principal feature of the *modus vivendi* approach (Westphal 2018a, p. 11). See also Enzo Rossi's suggestion that "liberals should drop the language of justice [...] and adopt the language of *modus vivendi*" (Rossi 2018, p. 104), and Thomas Fossen's observation that "the central thought of recent theories of *modus vivendi* is to say that a commitment to peace ought to take precedence over a commitment to justice" (Fossen 2018, p. 111).
3. Matt Sleat nicely captures the general idea, discussing John Gray's claim that regimes can be deeply unjust while still satisfying the moral threshold to qualify as a *modus vivendi*: "it would be obviously inconsistent to make meeting standards of justice set down prior to the political process a condition of legitimacy when *modus vivendi* precisely assumes that it is our disagreement about what justice demands that provides the context of contestation and conflict to which politics is the response" (Sleat 2018, p. 196).
4. Manon Westphal suggests that the work of both John Horton (2010) and Enzo Rossi (2010) can be read as pursuing *modus vivendi* "within the spirit of political realism" (Westphal 2018a, p. 5). Fabian Wendt similarly places the avowedly *modus vivendi* work of Horton and John Gray (2000) under the realist banner (Wendt 2018, p. 35).
5. Cf. Horton's claim that he is particularly interested in "greater descriptive adequacy and in articulating a style of political theory that is primarily directed towards *understanding* rather than *prescribing*" (Horton 2010, p. 132, emphasis in original).
6. For a critical survey of various contextualist approaches, see Kukathas (2004).
7. Stephen Wall (2018) offers an extended and subtle discussion of how the criterion of acceptability complicates the simple distinction between liberal moralism and *modus vivendi*.
8. Thomas Gutmann asserts that "political philosophy after Hobbes' *Leviathan* is the endeavor to conceive a political order that guarantees more than peace" (Gutmann 2018, p. 84). I am treating the *modus vivendi* approach as one such endeavor. If we build moral content into the concept of "social order" or "peace," the distinction I'm drawing would collapse. I'm assuming, therefore, that social order and peace can be secured through means we would regard as morally objectionable.
9. Westphal (2018b) offers such an argument in deriving substantive conclusions about particular political forms and processes from what is often presented as *modus vivendi*'s substantively neutral and deeply contextualized approach. Her argument strikes me as extraordinarily interesting. But I don't think it shows (and to be clear, this is not a claim she makes) that actual compromise has independent force as a criterion of legitimacy, as opposed to instrumental value in helping make sure some other intrinsically compelling criterion is met.

10. Sleat, too, suggests that as a constraint on acceptability, it's not clear that actual compromise does much work on its own (Sleat 2018, p. 192).
11. *Modus vivendi*, Horton has written recently, is committed "only to the idea of an acceptable and workable peaceful settlement, which allows citizens to go about their ordinary business and at least does not prevent them from living worthwhile lives" (2021, p. 57). A related approach, which I cannot examine here, is offered by Thomas Fossen, who suggests that what matters for *modus vivendi* is a citizen's judgment of "what one can live with, politically" (2018, p. 125), of feeling "that one's survival *qua* political agent is secure" (2018, p. 123).
12. Rossi (2010) similarly notes that *modus vivendi* permits citizens a wide range of reasons for support.
13. Wendt (2018, p. 42) makes the same point.
14. See McCabe (2018), p. 155ff.
15. Matt Sleat raises a terrific question in this context: "Why should people think that there's any reasonable expectation at all that the political arrangements they live under should align with what they take to be maximally ideal?" Given how many liberal moralists seek to show that citizens have good reason to see their political institutions as ideal, Sleat's point strikes me as deeply important, though I cannot pursue it here.
16. As Stephen Wall notes, "[t]he articulation and defense of an account of acceptability that presupposes a minimal moral core requires one to identify principles or general criteria to distinguish acceptable from unacceptable compromises. And identifying these principles or criteria, in turn, requires engagement and theoretical reflection that is a recognizable instance of political moralism, albeit one directed at the decidedly non-ideal circumstances of political life" (Wall 2018, p. 59).
17. The protection is against collective action by other states as states and so would not prohibit individual citizens or non-governmental organizations from lobbying for change in the decent nation.
18. Rossi refers to "liberalism's aspiration to occupy a privileged normative position vis à vis other kinds of regimes" (Rossi 2018, p. 96), Horton asserts that most liberals endorse the claim "that only a certain kind of philosophically endorsed liberal regime can be politically legitimate" (Horton 2018, p. 133), and Westphal sees *modus vivendi* as motivated in part by the urge "to deprive liberal institutions of their allegedly morally required status" (Westphal 2018b, p. 255). I'm suggesting that Rawls' later work complicates assertions that liberalism must claim supremacy over other modes of political life.
19. Horton does, however, allow that toleration "can function as an important conceptual and practical resource in helping to institute a *modus vivendi*" and "facilitates arrangements where people can live together even when they have a strong antipathy to what each other stands for." In this way, the relation between toleration and *modus vivendi* is more than simply contingent, even as he concedes that some *modus vivendi* regimes may be intolerant (Horton 2021, p. 57).

20. This critique is offered in Talisse (2000) and echoed in Bacon (2010). Manon Westphal phrases the response nicely: “the idea that certain pernicious scenarios should be avoided – [...] genocide, institutionalized torture, humiliation and religious persecution – does not throw *modus vivendi* back on a public reason-based account of politics” (Westphal 2018b, p. 261).
21. I discuss some of these issues in greater depth in McCabe (2018).
22. “Normative disagreement is undeniably one important source of the need for a *modus vivendi*, conflicts of interest being the other principal source” (Horton 2018, p. 137).
23. See Ostrom (1990), p. 182. The same may be said of Polanyi’s groundbreaking discussion, which cites science as a polycentric organization and then derives similar lessons by exploring the fields of art, religion, and law. Referring to Polanyi’s analysis, Aligica notes that “the authority structure has to allow a multitude of opinions to exist, [...] not just as hypotheticals but as ideas actually implemented in practice” (Aligica 2014, p. 39). Given the reference to “the authority structure” that allows opinions to be put into practice, I read this as an example of bounded polycentricity.
24. The argument of Kymlicka (1989) is worked out in a way that connects more directly to actual political practice in Kymlicka (1995). Ayelet Shachar (2001) advances a model along similar lines with special reference to gender issues, arguing that citizens should be permitted to place themselves under the laws of distinct communities existing within a wider political framework.
25. In the same way, we can distinguish (i) the defining features of a liberal state from (ii) liberal moralism as a specific theoretical framework that makes the case for those features.
26. Graeber and Wengrow (2021) is the most noteworthy recent work to wade into this argument.
27. Elinor Ostrom’s criticism of the flaws in such modeling is worth quoting: “These models demonstrate what individuals will do when they are in a situation that they cannot change. We do not learn from these models what individuals will do when they have autonomy to craft their own institutions and can affect each other’s norms and perceived benefits” (Ostrom 1990, p. 184). For an extensive discussion of the role of trust in political communities, see Vallier (2019).

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2. From ideational to social: reframing modus vivendi

Aylon Manor

1. INTRODUCTION

The concept of modus vivendi (MV) has carved out an important place in recent political theory for its pragmatic approach to complex, pluralistic societies. On the one hand, it challenges the idealistic and often unrealistic assumptions of liberal moralism by advocating for a more down-to-earth view of politics (Gray 2000; Galston 2010). On the other hand, it suggests a more practical way to make liberal institutions palatable even to those who don't buy into liberal values (Neal 1993; McCabe 2010). It can also serve to highlight peace and stability as significant political achievements worthy of independent normative theorizing (Wendt 2018). Despite its appeal, this chapter argues that current theories of MV haven't distanced themselves enough from the liberal moralist theories they aim to supplant. Specifically, current accounts of MV largely accept the idea that political conflict is rooted in a clash of philosophical ideals or deeply held world views.

My central argument is that this understanding of political conflict, what I call the 'ideational conception,' is mistaken. It misses the reality that political disagreements and conflict often stem from social and institutional factors like group loyalties and tribal divisions, rather than conflicting world views. Conflicts at the level of ideas or world views are more often a product of social and political divisions than their cause. By considering these social and political dynamics and shifting to what I call the 'social conception' of conflict, we can both sharpen MV's realism and rethink how we judge the legitimacy of liberal institutions.

Before outlining the argument, it's important to note that my focus is primarily on the United States. There are, of course, many countries around the world for which the MV approach might be appropriate (and, indeed, it might also be appropriate as a framework to theorize the international order). However, the United States is often described as a deeply divided society

with escalating political polarization.¹ It is therefore sensible to believe the MV approach could usefully be applied to the American case. Moreover, the theoretical approach MV critiques, liberal moralism, has been characterized, rightly in my view, as U.S.-centric. It is therefore reasonable to expect a theory aimed at supplanting liberal moralism to be one that meaningfully applies to political order in the U.S. The extent to which my argument applies to cases beyond the U.S. is an important question that depends on various empirical issues falling beyond the scope of this chapter. Nonetheless, if my critique of extant MV theories is correct vis-à-vis the American case, there is reason to scrutinize the approach more broadly as well. Other entries to this volume demonstrate how MV founded on the social conception can be applied to other countries around the world.

The argument will proceed in the following way. The next section delves into the foundational appeals of MV theorizing – its claims to a more grounded political realism and its nuanced defense of liberal institutional structures. Section 3 examines the limitations of the extant defenses of MV, suggesting they can be fruitfully developed by placing a greater emphasis on the social and institutional roots of political conflict. I review two recent discussions of social scientific evidence in support of this approach. In Section 4, I explore some potential implications to MV theorizing of shifting from the ideational to the social conception of conflict. I explore implications regarding the role of ideological compromise, the value of bipartisanship, theories of political representation, cultural segregation, group autonomy, the malleability of social identity, and electoral incentives. Finally, Section 5 synthesizes these insights, underscoring the imperative to expand our analytical horizons beyond the ideational conception of conflict if we are to meaningfully grapple with the realities of political life.

2. THE DUAL APPEAL OF MODUS VIVENDI

Building on the introduction, the appeal of MV stems from two principal aspects. First, it purports to provide a more realistic foundation for understanding political order. Second, it provides liberals with stronger arguments to justify liberal institutions to non-liberals. Below, I explore these two driving forces behind the MV approach.

2.1 MV and Realism

Modus vivendi counters what scholars such as John Gray and William Galston have critiqued as ‘liberal legalism’ or ‘high liberalism’ (Gray 2000; Galston 2010), what I refer to as following (Horton 2010) ‘liberal moralism.’ Typically, John Rawls and Ronald Dworkin are cited as exemplars of liberal moralism.

Notwithstanding the substantive differences in their political philosophies, they are collectively critiqued for advancing utopian visions of political order. These utopian visions, critics argue, are predicated on unrealistic assumptions about political psychology, behavior, and processes. From the critics' perspective, Rawls' justice as fairness and Dworkin's luck egalitarianism both strive for ideologically pure or morally perfect societies. This striving, however, is viewed as both infeasible and undesirable, especially in pluralistic settings where diverse conceptions of justice and the good life prevail.

Modus vivendi seeks to challenge this moralistic tradition by emphasizing the actual practices and compromises that constitute real-world politics. Rather than pursuing an ideal of moral or ideological coherence, the MV approach acknowledges the inevitable compromises and trade-offs that characterize political life. This perspective refrains from the utopian tendencies of liberal moralism, embracing instead the complexities and messiness of politics. It argues that enduring arrangements can, and often do, emerge from the interplay of divergent interests and values. In doing so, modus vivendi takes seriously the real conditions under which political decisions are made, thereby offering a more realistic framework for political theory.

The realist critique of liberal moralism manifests in several dimensions. For instance, Gray identifies the primary philosophical error of thinkers like Rawls, Dworkin, Hayek, and Nozick in their axiological assumptions. Specifically, he contends that they erroneously, perhaps implicitly, regard political philosophy as a specialized branch of the philosophy of law, one primarily concerned with justice and fundamental rights (Gray 2000, p. 14). In this perspective, conflicts among competing goods and ways of life can ostensibly be reconciled through the framework of justice or rights.

Gray diverges sharply from this assumption. He posits that there exists no "uniquely rational way" to resolve such conflicts. Consequently, the aspiration for an "ideally liberal regime" is untenable (2000, p. 15). Gray asserts that MV emerges as a compelling philosophical approach precisely because it serves as an appropriate intellectual response to the reality of value pluralism.

Galston's account of political realism places greater emphasis on the distinctiveness of political reasoning vis-à-vis moral theorizing, as well as on the rejection of utopian conceptions of political order. Addressing the first point, Galston argues that the fundamental architecture of politics engenders a set of challenges that are qualitatively distinct from those addressed by individual morality (Galston 2010, p. 392).

In Galston's view, the realism-informed approach offers a nuanced understanding of political institutions. Contrary to moralists, who perceive institutions primarily as vehicles for the realization of pre-established principles, realists argue for a more complex role of institutions. Specifically, they posit

that the objectives of a community are, in part, endogenously shaped by its institutions.

Turning to the question of utopianism, Galston's account urges realists to "start from where a given political community actually is" rather than where it ought to be according to some abstract ideal. He further contends that while general principles might hold theoretical validity, they often fall short in prescribing concrete solutions to real-world problems. Taken too literally as action guides, these principles are not only unhelpful but potentially detrimental (2010, p. 396). Galston also casts political conflict as "ubiquitous, perennial, and ineradicable," thereby rejecting any undue optimism about the prospects for either normative or practical consensus. In this view, moralists are criticized for "being far too sanguine" about the prospect of achieving wide-ranging agreement in matters of politics and morality.

Horton (2010) reinforces Galston's critique, arguing that moralists show a "descriptive inadequacy" in their analysis of political life. Specifically, Horton notes that a thorough reading of Rawls' work reveals a notable absence of discussion on the fundamental roles of political parties, advocacy groups, and other key democratic institutions. Even the subject of elections is reduced to merely a right to vote (2010, p. 433). Horton further observes that moralists neglect to engage with the essential notion of political power. This oversight is particularly problematic because, in democratic settings, attaining governmental power necessitates winning elections, which in turn requires some level of responsiveness to an electorate that may be both uninformed and driven by amoral/immoral motives (2010, p. 434). In essence, moralists are criticized for misrepresenting political life's realities and failing to guide societal change through political action.

This concise overview highlights varied emphases among those who critique liberal moralism. While these nuances could result in diverse alternative frameworks, a common thread of dissatisfaction runs through all: a critique of the foundational understanding of politics that moralists use to build their normative theories. I'll revisit the subject of realism in Section 3. For the time being, let's shift our focus to the second driving force behind the *modus vivendi* approach.

2.2 MV and Liberalism

The second key attraction of the MV approach lies in its critique of the liberal moralist argument: that it inadequately persuades non-liberals to embrace liberal institutions. Scholars like David McCabe (2010) and Patrick Neal (1993) advocate for an MV framework specifically for legitimizing liberal institutions.

According to McCabe, the liberal project consists of two primary objectives. The first relates to the character of political association and conduct.

Here, McCabe underscores the ‘harm principle’ and the avoidance of state paternalism as the foundational commitments of liberalism (McCabe 2010, p. 4). The second aim, which McCabe identifies as the ‘justificatory requirement’ (JR), is to present a rationale for these institutions that can persuade all reasonable citizens – where ‘reasonable’ is not narrowly defined as agreement with liberal core values. McCabe contends that Rawls and like-minded theorists have fallen short in offering compelling reasons for a liberal state that would resonate with those who are reasonable yet hold illiberal perspectives. Meeting the JR, in McCabe’s view, requires a shift away from the Kantian/Rawlsian moralistic framework toward a more pragmatically inclined Hobbesian understanding of liberalism – hence his book title, *Modus Vivendi Liberalism*.

Rather than striving to establish that liberal institutions can attract an overlapping consensus, McCabe argues that we should present these institutions as a workable compromise that enables peaceful coexistence and facilitates the provision of other essential public goods. In his view, liberal institutions can be justified as a “second-best” solution based on a societal agreement. Citizens would tolerate a wide scope of liberties for others and forgo using state power to enforce their own normative views, in exchange for the safeguarding of their own freedoms and an assurance that they and their offspring won’t be subject to paternalistic impositions based on norms they reject (McCabe 2010, p. 133).

Patrick Neal categorizes three “strategies of liberal self-defense” (Neal 1993, p. 623): the ‘ideal-based model,’ the ‘neutrality model,’ and the ‘modus vivendi model.’ The neutrality model, which has had a strong influence in political philosophy for decades, is most prominently represented by the political liberalism of Rawls (2005) and Larmore (1990). The ideal-based model, which posits that the liberal state should advance a particular theory of the good, finds its exemplars in scholars like Raz (1986) and Kymlicka (Kymlicka 1989). The modus vivendi model, although it traces its roots back to Hobbes, has been relatively neglected in contemporary political philosophy.

Neal suggests that within the context of intra-liberal debates, advocates of the ideal-based model have generally out-argued those of the neutrality model (1993, p. 629). However, Neal points out that this ideal-based approach falls short in one significant way: it neglects to accord sufficient normative importance to the values of peace and stability. While the neutrality model does acknowledge the importance of these values, it fails to articulate a coherent and persuasive justification for liberalism that would resonate with non-liberals.

The implication of Neal’s analysis is a call for a Hobbesian ‘vulgar liberalism,’ a form of liberalism that candidly acknowledges the less-than-noble motivations often driving social groups and political actors. On this account, liberal institutions earn their justification not solely from high moral principles but also from a pragmatic political compromise aimed at averting collective disaster.

In wrapping up this section, it's clear that the *modus vivendi* approach offers an alternative to the more idealistic frameworks of liberal moralists. By focusing on pragmatic compromises and real-world conditions, MV attempts to make liberal institutions more palatable to non-liberals and addresses the realities of political life. However, the next section argues that extant accounts of MV have not pushed the realist critique of liberal moralism far enough. More specifically, I will suggest that political realism necessitates a shift toward a social conception of ideology, demanding a deeper revision of how we understand political association and legitimacy.

3. RECONSIDERING THE NATURE OF POLITICAL CONFLICT: IDEATIONAL VS. SOCIAL CONCEPTION

The previous section reviewed the critiques MV theorists level at liberal moralism. Central to this line of criticism is the claim that moralists base their normative theory on an unrealistic picture of politics, rendering their conclusions wrong or unhelpful. MV theorists, in contrast, purport to start with a realistic conception of politics. As Horton (2010, p. 434) rightly points out, all theorists must abstract and/or idealize to some degree for purposes of simplification and parsimony.² But the guiding idea of the MV approach is to retain a realistic down-to-earth picture of politics after the methodologically needed simplifications have been applied.

In this section, I argue that MV theorists have not pushed the realist critique far enough. More specifically, I show that though they diverge in their proposed *solutions*, MV theorists largely accept the ideational diagnosis of *the problem* presented by moralists. According to this diagnosis, political conflict is best explained (at the fundamental level) by appeal to philosophical differences among citizens. To challenge the ideational conception, I review recent empirical literature that undermines it and supports the social conception, according to which conflict is best explained by appeal to social and institutional dynamics rather than ideational factors. Before reviewing the evidence for both theories, it's necessary to establish that both moralists and MV theorists largely accept the ideational conception of conflict.

3.1 The Ideational Conception: A Shared Assumption

Perhaps the clearest endorsement of the ideational conception comes from Rawls. In the opening pages of *Political Liberalism*, he writes: "The most intractable struggles, political liberalism assumes, are confessedly for the sake of the highest things: for religion, for philosophical views of the world, and for different moral conceptions of the good" (Rawls 2005, p. 4). He famously goes

on to theorize that these struggles can be overcome via an overlapping consensus on core constitutional principles. Setting aside his solution, it's evident that Rawls identifies the conflict's core as philosophical, thus accepting the ideational conception as a starting assumption.

Turning to some MV theorists. Gray spends much of *Two Faces of Liberalism* criticizing Rawls and others for pursuing the project of specifying the "correct" theory of justice and subsequently the "ideal" constitutional regime (Gray 2000, p. 14). The key problem with this enterprise, according to Gray, is that it wrongly assumes there is a unique answer to questions of value. The better project, the one appropriate given the truth of value pluralism, is to "search for terms of peace among different ways of life" (2000, p. 2). Again, putting his solution to the side, Gray assumes that the root causes of political conflict are differences in values. Gray shares with Rawls the assumption of the ideational conception.³

The ideational conception is likewise endorsed by proponents of MV liberalism. The central project of thinkers like McCabe and Neal is, after all, to intellectually justify the liberal order, through rational argumentation, to "persons who, prior to being presented with the liberal's argument, either endorse some illiberal vision of political association or are unsure of the appeal of the liberal account" (McCabe 2010, p. 7). This framing of the MV project assumes that the problem to be addressed is an ideational one and that the way to defend liberalism is to give people compelling reasons to change their ideas.

Notwithstanding differences in framing, terminology, and some substantive details, it is fair to say that both liberal moralists and MV theorists largely accept the ideational conception of conflict. This is quite understandable for at least two reasons. First, if we were to ask citizens to explain the root cause of their political divisions, we would mostly get answers that locate the division in deep philosophical differences. Indeed, as Achen and Bartels (2016, p. 309) point out, in interviews citizens often come off as principled rational ideologues. Achen and Bartels further observe that "that fact has led some scholars, particularly those who do fieldwork with extensive personal interviews, to suppose that somehow all the other scientific evidence is misleading. People make good sense: just listen to them!" (2016, p. 309). Political theorists and philosophers might therefore claim that in accepting the ideational conception, they are following the conclusions of empirical political science.

A second reason the ideational conception is intuitive for scholars is that they themselves spend their lives thinking deeply about politics from a theoretical/philosophical perspective. It is therefore natural for such scholars to suppose (perhaps unreflectively) that other citizens think about politics in a similar (though perhaps less rigorous) way. In other words, they might ascribe to others thinking patterns they are familiar with and assume that abstract

principles and ideas are central to their political preferences/behavior (as they believe it to be to theirs).

Despite its intuitive appeal, especially among political theorists and philosophers, empirical support for the ideational conception is lacking. Large bodies of research by political scientists and social psychologists reveal that much of what at the surface level may appear as ideational divisions are rooted in socio-institutional rather than intellectual factors. This reality is captured by the social conception of conflict, which claims that political preferences are the result of socialization and group loyalties. Below, I review two recent inquiries examining this issue: the first by political scientist and political historian Lewis and Lewis (2022), the second by social psychologists Pinosof, Sears, and Haselton (2023).

3.2 Evidence for the Social Conception

In their recent book, *The Myth of Left and Right*, Lewis and Lewis (2022) inquire into the foundations of political division in the U.S. and the fundamental explanation for issue clustering – a strong correlation between citizens' positions on an entire gamut of political issues. They distinguish between the 'essentialist theory of ideology' and 'the social theory of ideology' which capture what I've been referring to as the ideational and social conception of conflict, respectively. Lewis and Lewis understand the essentialist theory to be the claim that "distinct issues cluster together in ideological bundles because all political issues grow out of a single master issue (an essence)" (2022, p. 5), that issue typically understood to be being for or against change/progress. They understand the social theory to be the claim that "issues correlate because they are bound by a unifying tribe" (2022, p. 6). Political ideologies, according to the social theory, are "reverse engineered to fit tribal actions and attachments" (2022, p. 6).

Lewis and Lewis present a series of empirical studies that bolster their argument in favor of the social theory of ideology. These studies collectively suggest that political beliefs and affiliations are more often shaped by social cues, group dynamics, and affiliations rather than any inherent principles or convictions.

One piece of evidence comes from the research conducted by political psychologists Kinder and Kalmoe (2017). Their findings indicate that individuals first anchor into an ideological tribe due to influences like family, peers, or a particularly resonant issue. It's only after this anchoring that they adopt a broader range of beliefs associated with that tribe. In essence, the sequence is that tribal identity precedes political beliefs rather than the other way around.

Another study highlighted by the authors is the work of psychologist G.L. Cohen. In this experiment (Cohen 2003) participants were presented with a

welfare proposal. However, the twist was that some were told the policy was endorsed by the Democratic Party, while others were told it was backed by the Republican Party. The outcome supports the social conception: both liberal and conservative participants showed a tendency to adjust their views based on the purported party endorsement and not on the actual content of the policy.

Lilliana Mason's research further strengthens the socio-institutional theory and the primacy of tribal leaders. Her findings (Mason 2018) suggest that while a 'right-wing ideology' can be a strong predictor of support for figures like Donald Trump, it doesn't consistently predict support for specific political stances. This suggests a stronger allegiance to a political figure or tribe than to a set of cohesive principles.

Barber and Pope (2019) similarly find that conservatives would shift their stance on a policy like raising the minimum wage based solely on whether they were told Donald Trump supported or opposed it. This malleability, uninformed by any underlying principle, further supports the idea that political ideologies are shaped significantly by tribal affiliations.

A study by Macy et al. (2019) introduced participants to various experimental 'worlds.' In each of these worlds, early movers took distinct positions on a range of political issues. The results were compelling: individuals with the same ideological identity would often adopt opposite positions, contingent upon the stances taken by the early movers in their respective worlds. This fluidity in political alignment underscores the influence of social cues and peer groups in shaping political beliefs.

In addition to these empirical studies, Lewis and Lewis provide historical evidence to support the social theory of ideology, arguing that ideological terms like 'liberal' and 'conservative' are not fixed but evolve based on the actions and priorities of political parties. The authors highlight that over time, stances labeled as 'conservative' or 'liberal' have shifted dramatically.

For example, they note how conservative figures, from Barry Goldwater to Ronald Reagan to George W. Bush to Donald Trump, have held contrasting positions on various issues, such as tax cuts, government spending, and abortion rights. Goldwater's opposition to tax cuts and Reagan's support for them illustrate how the same ideological label ('conservative') was attached to different policies over time.

Furthermore, while discussing the Republicans, they delve into how views on Russia, internationalism, trade, and personal morality in politicians have evolved, especially with the rise of Donald Trump. For instance, conservatives' stance shifted from being anti-Russia to pro-Russia and from pro-trade to anti-trade within a short span.

On the Democratic side, the authors note the changing stances on internationalism and intervention. They cite that in 2004, during the Iraq War, more conservatives believed America should be active in world affairs than liberals.

However, by 2016, conservatives were increasingly favoring isolationism while liberals were more interventionist. Additionally, views within the Democratic Party on immigration have also evolved. Historically, some left-wing figures advocated for immigration restrictions due to concerns about the wages of American workers. However, the party's stance has shifted over the years, with different figures and times reflecting varying perspectives on immigration.

Taken together, the psychological studies and the historical evidence summarized by Lewis and Lewis strongly support the idea that political ideologies (and subsequent conflicts between them) are to be primarily explained in socio-institutional rather than ideational terms.

In a recent article, social psychologists Pinsoff, Sears, and Haselton ask the question “what is the moral thread that ties all these [policy issue] beliefs together?,” and answer “there is none” (Pinsoff, Sears, and Haselton 2023, p. 3). The authors develop and defend the Alliance Theory as a foundational approach to understanding political attitudes. Developed in contrast to prevailing theories in political psychology, the Alliance Theory posits that political beliefs and behaviors stem primarily from allegiances to specific groups rather than abstract moral principles.

Pinsoff, Sears, and Haselton challenge the Intolerance Theory, which claims that conservatives are inherently more intolerant than liberals. Drawing from the works of researchers such as Chambers and Melnyk (2006) and Moore-Berg et al. (2020), they argue that both political spectrums can exhibit intolerance, but this intolerance is directed toward perceived rivals. For instance, data from nationally representative datasets cited, such as those by Abrajano and Hajnal (2015), illustrate that both conservatives and liberals have nuanced views on different outgroups, suggesting that intolerance isn't inherently conservative.

Another central framework, the Authoritarianism Theory, asserts that conservatives naturally lean toward authoritarian tendencies. However, Pinsoff, Sears, and Haselton reference studies by Frimer et al. (2014) and Crawford et al. (2015), which demonstrate that both liberals and conservatives exhibit respect for authority figures, but this respect is contingent on the group associations of the authority figure. Furthermore, recent research mentioned, like the works of Conway III et al. (2021) and Manson (2020), suggests that both left-wing and right-wing groups exhibit traits of authoritarianism, challenging the long-held belief rooted in works like *The Authoritarian Personality* by Adorno et al. (1950).

Lastly, the Egalitarianism Theory, grounded in the works of Graham et al. (2009) and Jost et al. (2003), proposes that liberals inherently champion equality more than conservatives. Yet, Pinsoff, Sears, and Haselton highlight studies like Norton and Ariely (2011) and polling results from *The Pulse of the Nation* (2018),⁴ which suggest that both liberals and conservatives advocate

for equality when it directly benefits their respective group alignments. Such findings suggest that the desire for equality among liberals isn't universal but rather targeted toward their perceived allies.

Combining the discussions of Lewis and Lewis and Pinsoff, Sears, and Haselton, a preponderance of empirical evidence suggests that the social conception of conflict is a more realistic assumption on which to build our theories of MV or liberalism. MV critics of moralism have themselves fallen to the realism critique they advance. The next section turns to the constructive project of theorizing MV from the social-institutional conception of conflict.

4. MV AND THE SOCIAL CONCEPTION OF CONFLICT

My discussion thus far has aimed to establish the need to reconceptualize MV based on the social conception of political conflict. This project is a sizeable one encompassing theoretical, empirical, and cross-disciplinary work. Other entries in this volume showcase how such work can be done. For the present discussion, I close by offering a brief sketch of how this project might unfold. I will look, in particular, at seven issues: (i) ideological compromise, (ii) the value of bipartisanship, (iii) models of political representation, (iv) cultural segregation, (v) group autonomy, (vi) the malleability of social identity, and (vii) electoral incentives. For each topic, I will explore how adopting a social conception alters our approach within an MV framework.

4.1 The Role of Ideological Compromise

While both liberal moralist theories and existing MV accounts recognize the significance of ideological compromise, its centrality varies between the two. For liberal moralists, ideological compromise is paramount. Their frameworks hinge on the belief that despite deep-seated philosophical divides, there's potential for convergence or an overlapping consensus around shared values. This belief casts ideological compromise not merely as a tool, but as a foundational pillar for the realization of a harmonious society. In contrast, MV theorists, with their inherent skepticism toward the possibility of such consensus, accord a more tempered role to ideological compromise. While they don't envision convergence around similar values, they do maintain that satisfying diverse groups within a polity often requires offering greater respect and recognition to each group's ideological perspectives. In this sense, even if the scale and centrality differ, both frameworks underscore the importance of addressing and navigating ideological divides to achieve societal harmony.

However, from the perspective of the social conception of conflict, the focus on ideological compromise seems somewhat misdirected. While it is

undeniable that ideological differences manifest in political discourse and action, the social conception posits that these differences are often symptomatic of deeper social dynamics, particularly group loyalties and tribal affiliations. In this view, ideological divides are less the root cause of political conflict and more a manifestation or by-product of underlying social divides.

This shift in understanding has profound implications for the role and utility of ideological compromise. If the root causes of political divisions lie in social dynamics and tribal allegiances, then mere ideological compromise would be akin to treating a symptom rather than addressing the underlying ailment. Indeed, even if opposing factions were to find common ground on one set of issues, the intrinsic social forces that drive them apart would likely manifest in new ideological disagreements, perpetuating a cycle of division and conflict.

In essence, the social conception suggests that as long as individuals are socialized into opposing tribes with strong group loyalties, they will continually seek avenues to differentiate themselves ideologically and identify points of contention. While ideological compromise is not rendered entirely redundant in this framework, its efficacy is considerably diminished. Rather than a panacea for political conflict, ideological compromise becomes just one of many tools, and possibly not the most vital.

Therefore, while MV, when reconceptualized in light of the social conception, may still benefit from attempts at ideological compromise, it must also delve deeper, seeking strategies that address the foundational social and tribal dynamics fueling political division.

4.2 The Value of Bipartisanship

In the realm of political discourse, the ideas of ideological compromise and bipartisanship often seem intertwined, especially when viewed through the lens of the ideational conception of conflict. In this context, they are often considered analogous. If political conflicts primarily stem from deep-seated ideational differences, bipartisanship – entailing cooperation between opposing parties – embodies ideological compromise. In this light, bipartisanship carries the value of bridging philosophical divides, allowing for mutual concessions and the forging of shared solutions. It's an active endeavor to find common ground within the realm of ideas and policies, making it synonymous with the pursuit of ideological compromise.⁵

However, the perspective shifts dramatically when viewed through the social conception of conflict. Here, the underlying drivers of political division are not rooted in competing ideas or philosophies, but in social dynamics and group loyalties. In this framework, the value of bipartisanship is decoupled from its ideational content. Instead of merely facilitating ideological compromise, bipartisanship emerges as a powerful tool to reduce tribal antagonisms. The

act of bipartisan cooperation, irrespective of the specific policies or ideological compromises it might lead to, sends a powerful signal: leaders of opposing tribes are willing to collaborate. This collaboration not only humanizes ‘the other side’ but also demonstrates to the broader polity that tribal divides can be bridged, fostering a sense of unity and common purpose.

Seen through the social conception lens, the symbolic value of bipartisanship becomes paramount. While ideological compromise focuses on the content of agreements, bipartisanship emphasizes the process and act of coming together. Bipartisanship thus embodies inter-tribal unity and collaboration, visually and practically countering deep-seated tribal animosities. The very act of leaders from opposing factions working together can mitigate feelings of hostility and distrust among their followers, making bipartisanship a potentially transformative force.

Therefore, viewed through the social conception, bipartisanship becomes a key mechanism in maintaining MV. While ideological compromise remains valuable, bipartisanship, with its emphasis on process over content, assumes a greater role in fostering societal harmony and stability. It underscores the importance of fostering inter-group collaborations, not just in letter but in spirit, and elevates the significance of unity in action over unity in thought.

4.3 Models of Political Representation

Political representation is a cornerstone of democratic governance. Models of representation reflect distinct theories about the relationship between representatives and their constituents.⁶ How we interpret and prioritize these models can significantly shift when viewed through the lens of the ideational versus the social conception of conflict.

4.3.1 Delegate model

In the ideational conception, the delegate model of representation appears highly intuitive. According to this model, elected representatives act as direct agents for their constituents, closely following the wishes and directives of those they represent. This model is based on the belief that constituents have clear and stable ideological preferences, and they elect representatives to voice and enact those preferences in decision-making forums. In the ideational framework, which prioritizes philosophical or policy-based alignments, the delegate model ensures that the will of the people, as defined by their convictions and beliefs, is directly channeled into the corridors of power.

4.3.2 Trustee model

The trustee model also aligns well with the ideational conception. Here, representatives are given the autonomy to make decisions based on their judgment

and conscience, even if it diverges from the immediate desires of their constituents. The underlying assumption is that the electorate, while having firm ideational positions, selects representatives whom they trust to interpret and act upon these beliefs in complex, evolving political scenarios. Essentially, constituents trust their elected officials to navigate the nuances and intricacies of governance while staying true to a shared philosophical compass.

4.3.3 Descriptive model

The descriptive model may appear misaligned with the ideational conception. This model emphasizes that representatives should mirror the demographic characteristics (like race, gender, or class) of those they represent. It doesn't focus on the philosophical or policy preferences of the electorate but rather on their social and identity markers. In the ideational view, descriptive representation could be considered a proxy or heuristic to approximate the delegate or trustee models, on the assumption that those who share demographic characteristics might also share ideational beliefs.

However, the perspective shifts dramatically under the social conception of conflict. In this paradigm, political alignments are deeply intertwined with social groupings and loyalties. Thus, the descriptive model takes on heightened significance. When representatives share the identity markers of their constituents, it fosters a sense of belonging and mutual understanding. The act of representation becomes less about mirroring specific philosophical beliefs and more about embodying shared experiences, histories, and identities. In a world where tribal affiliations profoundly shape political perspectives, being 'seen' and 'heard' through representatives who share one's identity becomes crucial. The feeling that a representative belongs to one's 'tribe' can engender trust and reduce perceptions of alienation or marginalization.⁷

Within the framework of *modus vivendi*, the social conception greatly magnifies the significance of the descriptive model. When seeking a stable and peaceful coexistence amidst deep-seated social divisions, a representation that acknowledges and respects the significance of social identities becomes vital. By ensuring that all groups, particularly those historically marginalized or underrepresented, see themselves reflected in the decision-making apparatus, the descriptive model might serve as a powerful tool to foster inclusivity, mutual respect, and societal harmony.

In summary, while the delegate and trustee models align with the ideational conception, the descriptive model gains prominence in the social conception. It underscores the need to attend to the identity-based drivers of political behavior and the importance of fostering a sense of belonging through representation that reflects the diversity of social identities.

4.4 Cultural Segregation

The complex interplay between culture, society, and politics remains a rich area of exploration for scholars and policymakers. How we view the relationships between these spheres, particularly when it comes to the twin conceptions of ideational and social conflict, can significantly shape our interpretations of societal dynamics and our responses to them.

Rooted in the ideational conception is the belief that political preferences and ideologies are, in large part, products of abstract beliefs, principles, and values. Cultural or social affiliations, under this perspective, do not necessarily have deterministic links to these political leanings. In the ideational framework, cultural segregation – grouping based on shared customs, values, or practices – may enrich societal experience, but it doesn't necessarily lead to political conflict. In essence, different cultural groups can coexist harmoniously, even if they remain largely separate, without necessarily igniting political tensions, as long as their ideational differences are managed.

In contrast, the social conception of conflict posits that the heart of political strife lies in the deep-rooted group dynamics. Here, political alignments are seen as reflections of, or reactions to, underlying social and cultural groupings. From this perspective, cultural segregation becomes a potent predictor of political discord. When cultural or social groups remain isolated from one another, it fosters an environment ripe for misconceptions, mistrust, and even hostility. Without meaningful interactions between groups, stereotypes can flourish, and mutual understanding can wither.

For proponents of the social conception, the roadmap to a stable MV necessitates addressing these foundational group dynamics rather than merely focusing on the symptomatic political ideologies or policy preferences. In other words, fostering integration and breaking down cultural silos can be a more effective strategy to mitigate political conflicts than merely trying to reconcile differing political views.

The insights derived from the social conception take on urgent relevance when examining emerging trends in the U.S., notably the increasing gap between distinct socio-cultural groups. A particularly pronounced divide exists between college-educated Americans and those with a high school education or less. This divide isn't merely academic; it reflects broader socio-cultural differences and distinct life experiences.

According to the social conception, policies that unintentionally deepen these divisions, like disproportionate subsidies for higher education, may lead to unintended negative consequences. While the intent behind promoting higher education is laudable – equipping citizens with skills and knowledge for the modern economy – there's a potential downside. If these policies inadvertently result in a society where the highly credentialed become culturally

segregated from the rest, it can erode the fabric of societal cohesion. Such segregation can undermine the legitimacy of democratic institutions and threaten the stability of the polity, as groups begin to perceive each other through lenses of suspicion and alienation.⁸

4.5 Group Autonomy

The role and value of group autonomy in a diverse society can change considerably depending on whether we view conflict through the lens of ideational or social conception. In the ideational conception, societal conflicts are fueled by deep-rooted philosophical differences about justice and the good life. This perspective sees the divergent value systems and beliefs that different groups uphold as the primary drivers behind political tensions. In MV theories grounded in this conception, group autonomy emerges as a crucial instrument. By granting groups the freedom to realize and practice their distinctive systems of value and principles, societies can potentially mitigate conflicts. This autonomy allows groups to actualize their abstract principles and life philosophies, thereby accommodating the pluralistic visions of a good life that coexist within the polity.

Conversely, the social conception attributes political discord to tangible social dynamics rather than philosophical differences. From this perspective, conflicts between groups aren't necessarily due to conflicting ideologies about justice or morality, but often due to social factors – like status, perception, and societal respect.

This shift in understanding illuminates a nuanced dimension: the notion of group dignity. Group dignity emphasizes the necessity for all groups to feel respected and valued within society, beyond just realizing ideological commitments. It's not merely about living by a set of abstract principles; it's about members of a group perceiving that the wider polity respects their collective identity and acknowledges their worth.

From the vantage point of the social conception, group autonomy assumes a revised role. While it might still be seen as valuable, it's not primarily about allowing varied philosophical principles to flourish in isolation. Instead, group autonomy can be an effective conduit to facilitate and express the more foundational notion of group dignity. By affording groups the freedom to govern themselves and make certain decisions, societies can signal respect and acknowledgment of their unique identities and contributions. In this light, group autonomy becomes less about living divergent life philosophies and more about enhancing mutual respect, acknowledgment, and ultimately, societal cohesion.

4.6 The Malleability of Social Identity

The social conception of conflict, by placing group identities at the center of political analysis, accentuates the need to understand how individuals come to identify with specific groups. Moreover, understanding the fluidity and adaptability of these identities in response to exogenous factors is crucial. To illustrate this issue in more concrete ways, I will discuss a recent study by economists Atkin, Colson-Sihra, and Shayo (2021). By analyzing the patterns of food consumption in India, the researchers delve into how identities are shaped and shifted by various factors, with a particular focus on how these identities intersect with economic incentives.

India, with its rich tapestry of ethnic, religious, and cultural identities, provides a fertile ground for such an analysis. The paper anchors its analysis on the premise that food consumption, especially in a country like India, is not just a matter of sustenance but also a reflection of one's religious and cultural allegiances. Dietary choices become significant identity markers due to distinct food taboos and prescriptions linked to various groups. The consumption or avoidance of certain foods, such as beef, pork, and alcohol, or preferences for rice versus wheat, can shed light on whether an individual identifies more strongly with their religious group or ethno-linguistic community.

A key takeaway from the research is that identity is not binary but exists on a continuum. External factors can influence the degree to which one associates with a certain group identity. The authors identify three primary determinants shaping these identity choices:

Group Salience: Events or scenarios that amplify the prominence of a particular group identity can sway individuals to identify more strongly with that group. For instance, inter-religious conflicts, like Hindu–Muslim confrontations, magnify the salience of religious identities, which in turn might reflect in food consumption patterns adhering to religious norms.

Group Status: The status or prestige associated with a group influences identity alignment. The study uses the proxy of returns to typical group occupations to highlight this, suggesting that a rise in the status of one's religious or ethnic group is correlated with increased adherence to that group's consumption norms.

Economic Costs: Surprisingly, the economic cost of adhering to a group's norms plays a pivotal role in identity choices, a factor not traditionally emphasized in social-identity research. For instance, when the price of a particular food (like pork) rises, the associated economic cost may affect

the intensity with which individuals identify with the related group (in this case, Muslims).

The paper's analysis of India's 1991 economic reforms underscores how these forces intersect. The estimated shifts in identity, as inferred from food consumption patterns, align with changes in vote shares for ethnic and religious parties, emphasizing the real-world implications of such identity shifts.

The insights gleaned from the Indian study on the malleability of social identities invite broader generalizations, illuminating the dynamics by which individuals choose to emphasize certain aspects of their identity. Within the social conception of conflict, these identity choices are central to political dynamics and vital for developing MV theories. One significant revelation from the study is the pronounced influence of economic incentives on identity psychology.

This understanding dovetails intriguingly with our earlier discourse on education and cultural segregation. Consider, for instance, the escalating economic costs associated with higher education in the U.S. As individuals invest significantly in their education, not just in terms of time and effort but also substantial financial resources, the degree they attain may take on heightened importance in their self-perception. Acquiring a college degree, or further advancing to an MA or Ph.D., becomes not just a mark of academic achievement but a pivotal component of one's identity. Essentially, the more one invests in something, the more integral it becomes to one's self-concept. This phenomenon underscores the intricate web linking economic decisions, identity formation, and broader societal implications.

4.7 Electoral Incentives

The social conception of political dynamics accentuates the influence of electoral system structures on political competition, and consequently, on the incentives and strategies adopted by political entrepreneurs and representatives. Below I consider these structural underpinnings from two perspectives: Duverger's Law and electoral competitiveness within the two-party system.

Duverger's Law suggests that first-past-the-post systems often lead to the formation of two-party systems (Duverger 1963). From the social conception perspective, political parties often catalyze ideological friction, not just reflect existing sentiments. Thus, the choice of electoral systems and their inherent voting rules, which either advocate a bipartite or multiparty structure, can have far-reaching consequences. Specifically, these rules can shape the nature and depth of ideological divides in society, influencing the very fabric of political discourse.

In *Insecure Majorities* (Lee 2016), Frances Lee examines electoral competitiveness in the two-party system. Her research underscores the notion that when the two major parties in the U.S. are of approximately equal strength, there's heightened competition for control over national institutions. In this hyper-competitive environment, there's an amplified emphasis on political messaging to delineate clear distinctions between the parties. Parties become relentless in portraying stark differences ideologically or through accusations of incompetence and corruption against the opposition.

Central to this dynamic is the pursuit of differentiation. Parties persistently seek to answer the question: "Why choose us over them?" The usual retort accentuates their unique stance, emphasizing why they are superior or different from the opposition. While some differences are rooted in ideology, often catering to the party base, others are non-ideological, aiming to tarnish the image of the opposition for broader electoral gains.

However, this drive for differentiation, highlighted by the social conception, can unintentionally deepen ideological divisions among citizens. In their bid to distinguish themselves, parties might amplify these supposed ideological disparities, causing citizens to align with one party's viewpoint over another more strongly.

5. CONCLUSION

This chapter has sought to reframe the *modus vivendi* approach to political theory by building it based on the social conception of conflict. A growing body of experimental and historical evidence supports the social conception of conflict. The studies discussed by Lewis and Lewis and by Pinsoff, Sears, and Haselton indicate that political ideologies are more fluid and are heavily influenced by social cues and tribal affiliations. Consequently, MV needs to be re-theorized. Accepting the social conception pushes us to reshape our existing MV frameworks, emphasizing the role of social dynamics over ideational beliefs.

This shift toward the social conception has profound ramifications. It urges a reconsideration of many established notions, from the role of bipartisanship to the significance of electoral incentives. It opens the door to research into the socio-political dynamics in specific contexts. And, importantly, into potential ways of mitigating conflict generating social dynamics. In conclusion, acknowledging the social conception of conflict as foundational allows for a more empirically aligned political theory. It is only through such alignment that our political theories can truly reflect, and therefore address, the complexities of the contemporary political landscape.

NOTES

1. That being said, it is not altogether clear what theorists and pundits mean when they speak of increased polarization. Nor for that matter is it clear that the empirical evidence corroborates the feeling of increased polarization. For discussion of both issues, see Fiorina and Abrams (2008).
2. See Ackerly et al. (2024) for a recent discussion of political theory methodology.
3. To be fair, Gray better recognizes, compared to Rawls, the practical embodiment of these values. This explains his frequent use of the term ‘way of life’ as contrasted with Rawls’ use of ‘comprehensive doctrine.’ Nonetheless, Gray’s account still locates the core divide as axiological rather than social.
4. See <https://thepulseofthenation.com/#fairness>
5. The relationship between preferences for bipartisanship and partisan identification is interesting. Experiments by Harbridge, Malhotra, and Harrison (2014) indicate that while partisans may express a preference for bipartisan processes, they evaluate concrete policy outcomes on partisan grounds.
6. For a classic discussion about models of representation, see Pitkin (1967). For recent overviews and analyses, see Urbinati and Warren (2008) and Dovi (2018).
7. For a thoughtful case for descriptive representation, see Mansbridge (1999).
8. There are also more direct cost–benefit reasons to worry about excessive higher-education subsidization (Bankston III 2011 and Caplan 2018).

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3. Two perspectives on the problem of peaceful coexistence: John Gray's *modus vivendi* and David Mitrany's functionalism

Robert Gabriel Ciobanu

1. INTRODUCTION

This chapter will focus on *the system of ideas*¹ of two political thinkers who belong to a rather peripheral strain of liberal political thinking, for which the main desideratum of the political order is neither the fulfillment of some criteria of justice nor the achievement of a universal consensus regarding the best constitutional provisions or the general principles on which the social and political order ought to rely. For both of them, the aim of political order is the attainment of peaceful coexistence in a world profoundly marked by normative disagreements.

Even if this political tradition belongs to a Hobbesian-type enterprise, it still departs from the classical Hobbesian solution because John Gray's *modus vivendi* and David Mitrany's functionalism – the two political and institutional approaches analyzed in this chapter – do not presuppose that diversity and pluralism should – or can – be eradicated by a voluntary submission to the civil laws of the sovereign, which become the ultimate standard of the good. By focusing on an alternative tradition in liberal political theory, both the strengths and limitations of the standard liberal approach will be revealed.

For many reasons, John Gray and David Mitrany are two relatively different political thinkers. Firstly, John Gray is a moral and political philosopher, while David Mitrany was primarily a political scientist whose main contributions pertained to international relations and political economy. Secondly, while Gray approached the philosophical roots of the political order more directly by engaging with both the history of political ideas and contemporary political theory, Mitrany started his inquiry from the prevalent social, political, and administrative trends, from the political reality of his own times, and

approached the normative foundations of the political order only indirectly and somehow lacunary.² Thirdly, while Gray's *modus vivendi* emphasizes the central role of political institutions in mediating conflicts and, as a consequence, in maintaining social order, Mitrany's functionalism has a strong anti-political bias and accentuates the pivotal role of social and economic cooperation and administrative institutional arrangements in securing a peaceful national and international society.

Beyond these differences, what unites these two thinkers is more foundational and relevant. Firstly, both of them were not only academics – even if they were primarily academics – but also public intellectuals whose works contributed, to a certain extent, to political discussions and decisions taken during their time. Secondly, both of them believed, although for different reasons, that political theory as we inherited it is no longer helpful in confronting the challenges of our own epoch. Thirdly, both of them are part of a tradition that stresses, in broadly defined terms, the primacy of practice over theory. One may even say that the same underlying assumptions which made Mitrany unambiguously reject the positivistic approach to the field of international relations also made Gray deny the usefulness and relevance of the highly abstract model of the rational individual, disembodied from any particular identities, of what he calls “the new liberalism.”³

John Gray's *modus vivendi* and David Mitrany's functionalism depart from the standard liberal approach to politics in many ways. They are both rooted in a realistic conception of politics, which sees “the war of all against all” as a permanent threat to human good, and the search for peaceful coexistence as an ubiquitous human enterprise. Both Gray's *modus vivendi* and Mitrany's functionalism share a distrust of the legalistic and constitutional-oriented schemes, one-size-fits-all solutions, and both of them prioritize the local, particular, contingent, and decentralized answers to social challenges. Moreover, both Gray's *modus vivendi* and Mitrany's functionalism are infused with a communitarian flavor, which tempers the prevailing individualistic strain of liberal thought.⁴

Nevertheless, Gray's *modus vivendi* and Mitrany's functionalism were developed in different social and intellectual contexts and at different levels of political reflection. While Gray's alternative to the new liberalism was gradually articulated after the fall of communism in Eastern Europe, when hopes for the global hegemony of the liberal order were at their peak, Mitrany's functional approach emerged during World War II as a response to the crucial challenge of postwar reconstruction. While Gray's *modus vivendi* is essentially a normative approach with important practical implications, Mitrany's functionalism is a positive approach to international problems with a substantial underlying normative structure.

It is my conjecture that, if we attempt to understand these two thinkers and their specific approaches to social order in conjunction, we will be able to

construct a relatively coherent continuum that starts from the ethical reality of value pluralism, draws its implications for the design principles of political order at various local and national levels, and then extends and adapts those principles to the particular features of the international system. Brought together, Gray's and Mitrany's approaches offer a panoramic view that suggests to us that *modus vivendi* and functionalism are two alternative but complementary, institutional responses to those situations where profound conflicts of values, diversities of interest, or historical and cultural cleavages are prevalent. The context within which – and which one – of the two approaches should come to the forefront is a matter of particular circumstances and the result of a trial-and-error process. In the following two sections, I will explore John Gray's *modus vivendi* (Section 2) and David Mitrany's functionalism (Section 3). In Section 4, I will compare and contrast their approaches, and in Section 5, I will draw some conclusions.

2. JOHN GRAY AND MODUS VIVENDI

John Gray is probably one of the liveliest and most original political philosophers of our times. Gray started his intellectual journey as a liberal thinker, whose short book, *Liberalism* (1986), provides a profound and subtle interpretation of the liberal political tradition, both in its historical and philosophical instantiations. In his subsequent books, Gray gradually abandoned the liberal stance, engaged critically with the liberal tradition, offered an illuminating critique of the new liberalism, centered on the claims of rights and justice, advanced a pluralistic moral theory, rooted in Isaiah Berlin and Joseph Raz's treatment of the incommensurable and conflictual nature of moral values and ultimate goods, and attempted to sketch an alternative to liberalism, which he termed 'post-liberalism,' 'agonistic liberalism,' and 'modus vivendi.'⁵ His dense prose abounds in arguments which show the inconsistencies, incoherencies, and vulnerabilities residing at the core of different variants of liberalism, ranging from John Stuart Mill's utilitarian liberalism to John Rawls' Kantian contractarian liberalism and Robert Nozick's Lockean liberalism.

It is a difficult task to assess John Gray's system of ideas due to at least two reasons: first, because Gray excels as a critical thinker, being able to easily demolish solid philosophical constructions, but he is not necessarily a patient thinker, or a system-builder; rather, he is sometimes expeditious and makes argumentative detours which are not as elucidating as intended. Second, despite an underlying spirit and method, and a broad and general constancy, his ideas have undergone many changes, evolving from a standard classical liberal position⁶ to an unequivocal rejection of the main tenets and aspirations of liberalism,⁷ which makes his system of ideas be in constant movement and, as a result, difficult to engage with as a coherent whole.

My objective in this section is to offer a scrutiny of Gray's reasons for abandoning the liberal project and to explore his *modus vivendi* alternative. As I will argue, the central point of Gray's *modus vivendi* concerns the pivotal role played by political institutions in mediating the intractable conflicts generated by value pluralism. To achieve their purpose, political institutions should not necessarily be the liberal institutions of Western societies.⁸ They may take different forms, rely on different normative sources, and embody various cultural and historical contingencies. Their legitimacy, Gray contends, depends on their capacity to provide peaceful conflict resolutions by making enough room for negotiations and compromises.

John Gray's break with liberalism occurred in two subsequent phases. In the first phase, he denied the universality of its claims, contested its normative foundations, and advanced what he called "a post-liberal" political theory.⁹ The liberal project, Gray argued, is deeply rooted in the Enlightenment project and, as a consequence, inherits a philosophical anthropology and a philosophy of history which were the products of the rationalist prejudices of the epoch.¹⁰ By pointing out the failure of the Enlightenment project and rejecting it *in toto*, he also rejects the universalistic pretenses of the liberal political thinkers, which are, according to him, extensions of the philosophical thought of the 18th and 19th centuries.

Liberalism, Gray says, cannot claim universal validity,¹¹ its principles are not equally applicable to all human societies, and human flourishing does not necessarily depend on liberal regimes and institutions. Moreover, certain ways of life, which are conducive to human flourishing, cannot be fulfilled within a liberal regime. But, he continues, because of the prevalent diversity of our times, which involves profound value disagreements and conflicts between the demands of different ways of life, liberal institutions and practices are best suited to deal with these intractable conflicts. Liberal institutions are not, according to this perspective, political instantiations of abstract principles, but historically circumscribed means for maintaining a peaceful social order. Liberal institutions may suffer alterations, even radical alterations, as a response to changes in the historical and cultural context. In opposition to a foundationalist justification of liberal regimes, Gray's 'post-liberalism' endorses an anti-foundationalist and highly contextual approach to liberal institutions and practices. Hence, he rejects the claim of the priority of liberal regimes over other political regimes based on some abstract, universal, and objective principles, but still contends that liberal institutions should have priority over other political practices and institutions, based on practical or pragmatic considerations regarding the social and cultural contexts of late modern societies.

A few years later, Gray took a step forward and completely abandoned any claims about the priority of liberal regimes over other political regimes, be

they foundationalist or purely pragmatic and contextual claims.¹² The main reason for Gray's quarrel with liberalism is his embrace of value pluralism. He defines value pluralism in the following terms:

The theory that there is an irreducible diversity of ultimate values (goods, excellences, options, reasons for action and so forth) and that when these values come into conflict or competition with one another there is no overarching standard or principle, no common currency or measure, whereby such conflicts can be arbitrated or resolved. (Gray 1995, p. 64)

But, Gray argues, value pluralism affirms the existence of objective moral values, of good and wrong ways of life; it only denies that the incommensurability of values can be, in any way, circumvented. Hence, Gray's value pluralism rejects both relativism and subjectivism.¹³

Gray further contends that, once value pluralism is taken seriously, liberalism will necessarily lose its privileged status it possesses in our contemporary political theory. As he puts it, "from the truth of a plurality of incommensurable values the priority of one of them – liberty, autonomy or choice-making, say – cannot follow. Value pluralism cannot entail, or ground, liberalism in any general, still less universal way" (Gray 1995, p. 133). His overall argument goes as follows: The moral experience we all possess informs us that people may flourish in different ways (Gray 2000, p. 34); there is, as such, a reasonable diversity of forms of ethical lives, which cannot be reduced to a single measurement unit. We cannot say that one way of life is superior to another, that one set of basic goods ought to be preferred to another, or that in a particular situation, one value should be accorded priority over another. Values and human goods are simply incommensurable and sometimes conflictual.¹⁴ Due to the very nature of moral reality, we are trapped in moral dilemmas, in inexorable conflicts between the demands of different moral values or inherited identities and constraints.¹⁵ As a result, we cannot ascribe any special status to liberalism or to any other political regime.

One particular tenet of Gray's pluralism is his conviction that the value pluralism assumed in the new liberalism of John Rawls and his followers is superficial and expresses a rather American understanding of value conflicts: a set of conflicts between chosen lifestyles and identities, which can be easily replaced by other lifestyles and identities (Gray 1995, p. 121). Gray's value pluralism engages especially those contexts where the particular identities are not chosen, but inherited. The true value conflicts, he contends, are manifested in the unavoidable *trade-offs* between the requirements of unchosen identities. Nonetheless, contrary to his mentor, Isaiah Berlin, who contends that value pluralism is precisely the reason why liberal regimes are required, Gray denies this implication. If value pluralism is not conducive to liberalism, then what

does it lead to? And what are the political implications of his approach to ethics?

Gray's rejection of classical and new liberalism and his embrace of *modus vivendi* is fully developed in *Two Faces of Liberalism*. Gray contends that liberalism contains two strains of political thinking: one which is devoted to the discovery of the best political order, assumes a form of value monism, and relies on toleration only as a means to the universal consensus regarding the ideal political regime and the best way of life, and the other, which is preoccupied with the search for a political arrangement fitted to the contingent circumstances of a particular society, accommodates the inescapable reality of value conflicts, and seeks toleration as a permanent feature of the political regime.¹⁶ Nevertheless, it is not at all clear if this second strain of political thinking truly resembles liberalism. It is hard to describe as 'liberal' a political order which does not assume liberty as a core value – as *modus vivendi* does not.

Gray's *modus vivendi* can be synthesized as follows:

1. Every political regime is legitimate as long as it assures a peaceful coexistence and acknowledges some broadly defined human rights;
2. These human rights, on the other hand, are not the universal natural rights of the Lockean tradition, but contingent legal dispositions, which protect certain human needs;
3. When rival conceptions of what the good is clash, the only way to attenuate the resulting cleavages and conflicts is by means of political institutions, which allow the parties to negotiate and make compromises;
4. As a result, the appeal to universal moral principles and courts of justice as neutral arbitrators of such social conflicts is denied, and their role is replaced by political compromises.¹⁷

As can be easily noticed, Gray's *modus vivendi* and liberalism come into conflict regarding the ultimate aim of the political order: while the liberal standard position asserts that assuring liberty for every person is the objective of any legitimate political regime, *modus vivendi* states that securing the protection of everyone's life is the ultimate goal of the political order, no matter if that political regime ensures certain liberties, considered foundational by any liberal theorist, or not. A peaceful coexistence may sometimes be assured at the expense of some basic liberties. For example, in a country profoundly divided by religious convictions, the right to freely manifest your religious beliefs in the public sphere may be legitimately abrogated in order to avoid religious conflicts.

As a result, *modus vivendi* does not offer liberty a privileged position and does not propose an ideal political regime. A *modus vivendi* regime may take

different institutional forms as long as it assures a peaceful social order and creates adequate political institutions for mediating the all-pervasive value conflicts. If taken seriously, Gray's *modus vivendi* might be a turning point in our current political philosophy because it would redirect our intellectual energies toward a more robust and pragmatic approach to the political order. Even if one does not agree with Gray's overall perspective, it is hard to deny its relevance for the way we are trying to deal with our increasingly complex and heterogeneous world nowadays. Gray's break with the standard liberalism prevailing in our universities today forces us to rethink many of the taken-for-granted assumptions of liberal theories. Nevertheless, Gray's own approach contains many elements which can be rightly criticized, but a critique is beyond the objective of this section.¹⁸

3. DAVID MITRANY AND THE FUNCTIONAL THEORY OF POLITICS

For many reasons, David Mitrany is a barely known political thinker nowadays. He has entered into a kind of obscurity since the 1970s for at least two reasons. Firstly, after the end of World War II, despite retaining his professorship at the Institute for Advanced Studies in Princeton (which did not require any teaching), and despite some rather sporadic lectures, Mitrany did not teach anymore. While ceasing to teach, he also became a political consultant for Unilever. Though he was still continuing to do research and publish, he did not have the chance to coagulate around him and mentor a group of students who might have undertaken and further developed his system of ideas. Secondly, he was one of the leading intellectual figures who opposed, on functionalist grounds, the federalist direction for European reconstruction after the war. In the intellectual and political competition between the federalist project and the functionalist one, the federalist direction won the day, so David Mitrany and functionalism were pushed aside from the core intellectual history of European integration. Moreover, Mitrany strongly rejected the positivist methodology and the overly theoretical turn which the field of international relations took in the 1960s and 1970s, which he described as "a depressing state for the humanistic value of our voluminous work" (Mitrany 1971, p. 542).

Despite his different contributions to international relations, political sociology, and the economic history of Eastern Europe, Mitrany's works reveal a certain unity of approach and objectives.¹⁹ Firstly, Mitrany has always been interested in how peace can be brought between conflicting nations and how the dangers of war can be avoided. This is the reason why, after the end of World War I, Mitrany was an enthusiastic promoter of the League of Nations. Secondly, starting in the 1930s, Mitrany gradually developed his own approach to the problems of war and peace. He saw the emergence of

modern war, understood as a war between entire nations, and not just between separate armies, as both a political and an economic issue. In modern war, the war of attrition, the entire economy of a nation is used for military purposes; the economy becomes a war economy which is directed by an increased governmental apparatus.²⁰ The inescapable reality of the Administrative State, brought up by this new type of war, in order to achieve a peaceful international order, should be redirected toward a “functional cooperation” between both rivalrous and allied states.

My objective in this section is to offer an overview of Mitrany’s functionalism and to interpret it as a governance approach suited for different layers of social interactions. As I shall argue, even if the functional theory was developed as a model for cooperation at the international level, its basic logic and structure can be extended to the national or local levels. The functional cooperation theorized by Mitrany is a solution to the new kind of political, administrative, economic, and social entanglement which has been analytically depicted, among others, by Richard E. Wagner.²¹

Mitrany’s functionalism represents a new – and, one may add, a radical – development in the governance theories of the last century, particularly because of its emphasis on functional governance. While the classical theories are centered on the concept of territorial sovereignty, Mitrany’s approach relies on what he calls “functional cooperation” and “functional arrangements,” whose purpose is to transcend the territorial boundaries of a particular area, country, region, or continent, and to create a bunch of transnational organizations. By creating a set of organizations whose specific function is to deal with a particular set of problems – and with those particular problems only – states voluntarily renounce a part of their national sovereignty. The number of organizations created this way is directly proportional to the number of practical or concrete problems that should be transnationally solved.

Mitrany thought that the problems that should be addressed and dealt with are almost never circumscribed by a single governmental unit. The issues at stake span a multitude of such governmental units and require wide coordination among different layers of national government and, at the same time, transnational cooperation between administrative departments of different national governments: “the functional approach emphasizes the common index of need. There are many such needs which cut across national boundaries, and an effective beginning could be made by providing joint government for them” (Mitrany 1948, p. 356).

These practical problems may have a natural cause (e.g., an epidemic), or they may be produced by technological and scientific developments (e.g., nuclear weapons), or by certain social trends (e.g., massive immigration from one continent to another). These functional arrangements, whose jurisdiction and authority are shaped by the aims for which they were created, will

gradually erode the sovereignty of national states and create a complex and interdependent international system. The shape, budget, and internal decision-making structures for each of these institutions should not be prescribed in advance through a formal treaty, but decided according to local circumstances. As Mitrany ([1943] 1966) puts it:

Here we discover a cardinal virtue of the functional method – what one might call the virtue of technical self-determination. The functional *dimensions*, as we have seen, determine themselves. In a like manner the function determines its appropriate *organs*. It also reveals through practice the nature of the action required under the given conditions, and in what way the *powers* are needed by the respective authority. The function, one might say, determines the executive instrument suitable for its proper activity, and by the same process provides at need the reform of that instrument at every stage. (pp. 72–73)

Mitrany concisely describes in the above paragraph one of the central tenets of functionalism: it emerges in a bottom-up way, from the reality toward the institutional structure. The analogy with a living organism is a powerful image that encapsulates the entire functionalist philosophy: it is ‘natural,’ in the sense that it is not the product of rationalist or constructivist aspirations for a great political reform, but *a way to answer* new social problems; it is experimental, not aprioristic, giving enough room for trial-and-error, and decentralizing, at the level of each functional arrangement, the design principles. Needless to say, gaining consensus on what the problems are, and determining the objectives and the best means to attain the settled goals is a more difficult task for human beings than it is for living organisms, who need to find ways for barely surviving.

Mitrany observed that the functional trend is at work at both the national and international levels: “The rise of such specific administrative agencies and laws is the peculiar trait and indeed the foundation of modern government” (Mitrany [1943] 1966, p. 20). It is a common theme in Mitrany’s thought that the 20th century represented a major departure from the previous century, the latter being concerned with the establishment of constitutional rights and constitutional means to restrict the authority of governments, while the former is mainly concerned with the fulfillment of increasing social demands all over the world. People turned their faces from markets toward governments as principal providers of certain goods and services.

In order to respond to these new demands – which have a potentially revolutionary aspect – governments should be gradually transformed into administrative units, responsible for the production and distribution of the required goods and services. One of the main implications of these social and political trends is that the traditional understanding of politics, as a means for an enlightened elite to provide guidance to the simple people, and to settle

through legislation the right course of action, is completely abandoned. The state has become a productive organizational unit, whose purpose is to respond to the citizens-consumers' demands. But what are the implications of this turn for the liberty of people? Does not this transformation of the government into a 'productive state' mean a drastic curtailing of basic liberties? Once increased needs are satisfied through the state mechanism instead of the market order, the responsibility for determining what is produced, in what quantity, and priority, is passed to the public administrators.

Mitrany does not directly address these problems, but he was well aware of the great transformation which was taking place during the 20th century:

The whole of human society now is stirred and shaken by a threefold revolution – a political upheaval, a social surge and a scientific eruption which is moving beyond man's foresight and control. If these new forces are not to overwhelm the world, the world must learn how to bring them under common control. (1971, p. 532)

The problem which primarily interested Mitrany was how a peaceful social order in the new political, economic, and technological conditions could be established. The functional approach should be seen as an institutional answer to this question.

One of the particularities of the new social and economic situation, as Mitrany observed, is precisely the blurred frontier between private and public agents, or between the market order and the political order. This reality was recently acknowledged and given theoretical weight by the recent developments in political entangled economy. As Richard Wagner says, "to avoid this reductionist analytical framework requires some alternative framework that treats both politics and economies as interrelated orders of interacting agents" (2016, p. 41). Starting in the 1930s, Mitrany became aware of the new realities which have been theorized by political economists in the last few decades. He developed his functionalist approach not on the grounds of a clear distinction between the market and the state, but on the more realistic foundations of the shady relationship between the government and the market, a reality generated by the intractable rise of the new Administrative State.

Nevertheless, Mitrany stated that "the very end of political organization is to make it possible that people with differing views and divergent sentiments should yet work together peacefully for common ends" ([1943] 1966, p. 50). He believed that functional cooperation would gradually overcome the historical and ideological cleavages between rivalrous nations and the conflicts generated by different value systems and opposing political regimes. This cooperation would become a long-enduring condition for the achievement of a peaceful social order. From this point of view, we can see Mitrany's functionalism both as a governance solution developed in the new social, political, and

administrative context and as a more general political theory built upon the acknowledgment of the unavoidable prevalence of value conflicts and heterogeneity of opinions, preferences, and capabilities.

4. SIMILARITIES AND CONTRASTS

John Gray and David Mitrany are two complex thinkers. Their political ideas have slowly developed toward what later came to be known as ‘modus vivendi’ and ‘functionalism.’²² In the previous two sections, I provided a brief overview of their works and highlighted the major tenets of Gray’s modus vivendi and Mitrany’s functionalism. In this section, my aim is to sketch a comparison between their political approaches by highlighting similarities and differences. As I mentioned in the Introduction, it is my conjecture that Gray’s modus vivendi and Mitrany’s functionalism represent two complementary options to the governance problems which emerge under conditions of profound heterogeneity: on the one hand, modus vivendi brings to the forefront political institutions as instruments useful for bargains, compromises, and negotiations between groups of people who share different or rivalrous world views; on the other hand, functionalism emphasizes a certain kind of cooperation – functional cooperation – as a means toward a peaceful and materially prosperous society, under the assumption that the simple distinction between the market order and the political order is of little use to the understanding of our current political and economic systems.

4.1 Similarities

There are three main similarities between John Gray and David Mitrany: (1) conflict is an inescapable reality which one cannot get rid of by simply establishing an all-encompassing constitution or formal treaty; as a result, rather than focusing on an illusory constitutional consensus, (2) we should focus on practical and pragmatic solutions for attenuating the conflicts, and (3) we should attempt to design proper institutions fit for the purposes we want to achieve.

Both Gray and Mitrany came to the same conclusion that conflict is an all-pervasive feature of our social condition, although in different ways. Gray, following Berlin and Raz, embraced the idea that value conflicts are at the core of moral life; people follow equally justifiable, different moral values and ways of life, and this will inevitably generate conflicts between different groups of people – as well as conflicts within one’s own life. As the monistic solution is rejected on both normative and practical grounds, the result is that we should strive to accommodate pluralism and diversity. As Gray puts it, “what late modern plural societies need is not the consensus on values that

communitarians imagine they find in past communities. It is common institutions within which conflicts of interests and values can be negotiated” (2000, p. 121).

Mitrany, on the other hand, acknowledges that conflict is a well-established reality that has always accompanied the development of political relations. Politics implies separation and segmentation, competition and conflict. Being an international relations scholar, Mitrany observed that *realpolitik* is the natural way states interact with each other. But what is the more foundational cause of this conflictual interaction? Mitrany does provide an answer, but one can speculate about it: the scarcity of resources or some features of human nature (or both of them) may be responsible for the prevalence of conflict in politics. And, one may add, the scarcity which we are referring to is not the usual scarcity economists talk about, but rather the scarcity of positional goods. The endeavor for positional goods, combined with a specific hubris associated with political power, both represent perennial sources of conflict. Nevertheless, for Mitrany, the very idea of politics implies conflict: “... the evil of conflict and war springs from the division of the world into detached and competing political units” ([1943] 1966, p. 38).

Given the recognition of the unavoidable presence of conflicts, generated by clashes between different values, ways of life, world views, and interests, both Gray and Mitrany favor local, decentralized, and particular solutions for dealing with the consequences of such conflicts, instead of ‘grand universal schemes,’ based on certain value commitments and constitutional consensus. This emphasis on the particular instead of the general, on decentralization instead of centralization, on trial-and-error and step-by-step adaptation instead of formal fixity, on pragmatic adjustments instead of legal rigidity, is a prevailing feature of both Gray’s *modus vivendi* and Mitrany’s functionalism. This reflects that, for both of them, practice has priority over a conceptual or a normative scheme. For Mitrany, this belief is so powerful that he came to affirm:

Functional arrangements have the virtue of technical self-determination, one of the main reasons which makes them more readily acceptable. The nature of each function tells of itself the scope and powers needed for its effective performance. (1948, p. 358)

The problems themselves tell people what functional arrangements should be designed and what powers should be conceded to them. It is undoubtedly naïve, from a theoretical point of view, to believe that we can design the proper institutional arrangements just by approaching directly the problems at stake. But, from a practical point of view, this is exactly what people have always done. Particular people, in particular circumstances, based on the local knowledge

they possess, craft, through a trial-and-error process, proper institutions fitted to their problems and background.²³

John Gray seems to agree with Mitrany that institutional arrangements vary according to the needs that must be solved: “Unlike the legal adjudication of universal rights, political settlements are local, variable and renegotiable” (2000, p. 117). Every community has its own problems and challenges, so the institutional structures should vary accordingly.

Common institutions come in many varieties. This is not because there ought to be as many regimes as there are distinctive communities – as some communitarian theorists seem to think. It is because the conditions of coexistence among communities vary too much for one type of regime to be most desirable everywhere. (2000, pp. 121–122)

For both Gray and Mitrany, institutional diversity is a reality. This variety of institutional arrangements is based on differences in cultural outlook, prevalent needs and problems a community faces, or conflicts they should attenuate. The anti-foundationalist and anti-constitutionalist approach Gray and Mitrany share gives them more flexibility in conceptualizing the diversity of institutional arrangements. But, at the same time, they do not prescribe any clear limit to the functions or attributes of those institutional structures; their powers are rather vaguely circumscribed. These limits will be established in practice and by practice. Their rejection of constitutionalism as a starting point in the development of a political order may seem like a disturbing idea because it allows institutional arrangements to take shapes and forms which are not established in advance. But Gray’s and Mitrany’s approaches essentially resemble the Hayekian evolutionary perspective to social order, rather than the ‘constructivist rationalism,’²⁴ which sees the social order as the product of rational human design. The overall social order evolves and is maintained precisely by such particular, local, and decentralized institutional arrangements which are crafted over time to solve certain social needs.

Nevertheless, the historical and intellectual backgrounds of both Mitrany and Gray should not be overlooked. Both of them responded, in their works, to certain comprehensive political schemes, rooted in powerful and respectable political traditions. In Mitrany’s case, he developed the functional approach in response to the federalist ideas which were in vogue immediately after World War II, and for whom the main – even if not the sole – inspiration and intellectual source was the American constitutional and federalist tradition. In Gray’s case, his reaction was directed against the hegemony of the new liberalism, whose main representative was John Rawls, and the political hopes it fueled that a rational consensus can be gained with respect to the first principles of any liberal political order.

Gray's and Mitrany's recognition of the ubiquity and inevitability of conflicts in ethical decisions and social circumstances, their pragmatic approach to institutional arrangements viewed as means to maintaining a peaceful political order through bargaining, negotiation, and cooperation on practical issues, their emphasis on local and decentralized political solutions instead of a constitutionalist approach, and their tacit assumption of the priority of practice over theory, make these two political theories part of the same intellectual tradition and give us a conceptual lens for a better understanding of the political and social problems we have to deal with.

4.2 Contrasts

One should not be surprised that, beyond the similarities pointed out above, there are still many differences between Mitrany's and Gray's systems of ideas. As I have mentioned in the Introduction, Mitrany was a political scientist, mainly interested in international relations, while Gray is a political and moral philosopher, whose approach is primarily conceptual and normative. The differences are, at least partially, explainable by their different standpoints. In the following, I will explore two substantial differences between Mitrany and Gray, which are foundational to their approaches: (1) while both of them acknowledge the presence of conflicts, they differ concerning their implications, and (2) since Mitrany believes that politics is one of the main drivers of conflict, his 'functional alternative' intends to replace politics with administrative arrangements; Gray, on the contrary, thinks that we do not have any other option than political institutions to keep value conflicts under reasonable control.

Mitrany rejected federalism as a solution to European reconstruction after World War II for two reasons: (1) it would divide the world between those states which are part of the union and those which are not; as a result, those states left outside would be forced "to join together in some counter-group" ([1943] 1966, p. 51); (2) any political union – built on geographical or ideological criteria – would inevitably make a trade-off between values, interests, or needs; a political union cannot accommodate, at the same time, the values, interests, and needs of the states involved in that political union: "While territorial or continental groupings, therefore, would lean upon an unreal unity of outlook and interest, ideological groupings would cut across certain real and natural interests" ([1943] 1966, p. 51). Federalism is, for Mitrany, an expression of the constitutional and political approach to peace whose unintended consequence would be precisely the revival of the conflicts and cleavages it was intended to tame. Mitrany approvingly quotes many times in his works Samuel Johnson's dictum that "Such seems to be the disposition of man, that whatever makes a distinction produces rivalry" ([1943] 1966, p. 51).

Politics inflates conflict because it creates differences, segmentations, and rivalry. Consequently, to dispense with politics means to diminish the cleavages between people. Ironically enough, the same idea was expressed by James Madison: "Among the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction" (Rossiter 1961, p. 77). How can Mitrany – an anti-federalist thinker – and Madison – one of the canonical thinkers of federalism – arrive at the same conclusion? The answer is pretty simple: while Madison thought that a federation is in danger if there is no unity of purpose among people who constitute it – without presupposing that such a federation would not engage in external conflicts with other states – Mitrany thought that a federal international system would perpetuate the conflicts between rival groupings. As one may notice, Madison's and Mitrany's logic converge, but only the layers to which that logic is applied differ.

Instead of political devices, Mitrany opted in favor of administrative arrangements as the true engines of cooperation. He thought that people have a large array of needs and interests, which transcend the boundaries of national or federal states. The task of the functional arrangements is to bring together the needs and interests of people and to coordinate them through administrative means. Being part, at the same time, of multiple functional arrangements, the attachment to our inherited identities will be loosened, and our disposition to conflict will be redirected toward cooperation. The beneficial outcomes of functional cooperation, Mitrany believes, and the learning implied in the process of cooperation, will bring a peaceful and materially prosperous social world, composed of bunches of functional arrangements cutting across any political or ideological boundaries. These functional arrangements, to be truly useful, should be void of any political intrusion and, instead, filled with administrators, bureaucrats, and experts who are able to deal professionally and scientifically with every problem.

John Gray would probably reject Mitrany's approach to politics and his belief that functional arrangements may ever be capable of replacing political institutions, or that the functional identities thus created can substitute the inherited identities. Contrary to Mitrany, who optimistically argued that despite the actual ubiquity of conflicts, in the long run, they will be diminished by the prevalence of functional cooperation, Gray believes that conflicts are permanently rooted in the very nature of ethical life, that social cleavages are the expression of incommensurable values, and that the heterogeneity of our modern societies is not a historical accident nor a historical contingency, but a natural and inescapable fact. Cooperation – via the market system or functional arrangements – may satisfy certain human needs, but others will remain unfulfilled, and this dissatisfaction will produce conflicts. To satisfy all human needs at the same time is an impossible task. The existence of trade-offs is

profoundly rooted within the constitution of the human condition. As Gray puts it:

But the causes of moral and political conflict are not finally in our opinions. They are in our needs. It is because the needs of humans are discordant, not because their moral opinions are at odds, that conflicts of value are universal. (2000, p. 120)

However, a peaceful social order could be achieved because “the variety of interests that lead people to seek an accommodation with one another is what makes peaceful coexistence possible” (2000, p. 136). The key to a peaceful social order is, accordingly, the compromise between divergent and competing interests, achieved via political institutions, and not a presumed unity of interests or values. Mitrany would not deny that people have divergent interests, but he would say that people also have common interests, and those common interests are the basis of functional cooperation. Gray would neither deny that. But he would be very skeptical that these functional arrangements can in any way fully circumvent value conflicts. If that is the case, value conflicts reappear at the core of functionalism. How can value conflicts which span functional arrangements be mitigated? Mitrany does not have an answer, and it is hard to imagine that an answer can be found, except through political institutions.

It is not at all clear whether the functionalist project is feasible in its maximalist version, as envisaged by Mitrany, namely as a full-fledged substitute for political institutions. But even if that is not the case, functionalism has the virtue of persuading us to pay more attention to those common interests which represent the very premise of non-political cooperation. There is no doubt that Mitrany and Gray differ in many respects. But my hope is that it is also clear that they share many commonalities. Brought together, Gray’s *modus vivendi* and Mitrany’s functionalism offer us a comprehensive way of understanding the relationship between ethical life, value conflicts, and the institutional arrangements people design, at different levels of social interactions, to cope with those conflicts and cleavages. Their approaches may help us to better understand and deal with the problems generated by the increased heterogeneity of our times.

5. CONCLUSIONS

The aim of the present chapter was to show that both Gray’s *modus vivendi* and Mitrany’s functionalism are part of the same species of political theory, which deals with the problems and challenges of governance under conditions of profound heterogeneity. They both reject the primacy of constitutions or formal treaties and emphasize, instead, the priority of political institutions and functional arrangements. They do not aspire to come up with general

principles, rationally endorsed by every human being, but to craft, through a trial-and-error process and in a cooperative way, those institutions which might alleviate the value conflicts spanning all layers of social interactions. While Gray's *modus vivendi* represents a more pessimistic solution, because it assumes that only through political bargaining can cleavages be temporarily attenuated, Mitrany's functionalism is a more optimistic solution, precisely because it assumes that people will learn, in the process of cooperation, that it is better for each of us to set aside conflicts and focus on those issues which address our common interest.

One of the major implications of the comparative approach I have outlined in this chapter is that, contrary to our common beliefs, a political order which does not require any prior commitment to certain values or moral standards is possible. A *modus vivendi* or a functional social order requires only a commitment to common political, social, or administrative institutions, but not to substantial values. Nevertheless, neither Gray's *modus vivendi* nor Mitrany's functionalism is a one-size-fits-all solution to our political problems. They do not assure us that human beings will always agree to cooperate or to solve their quarrels through political bargains and compromises. It may well be the case that, in order to live in a peaceful society that does not rely on coercive powers to impose a desired social order, something more than political institutions and functional arrangements is needed: a broadly defined commitment to the fundamental value of human life and human goodness. In the end, whether or not a political order that abandons any prior commitment to anything substantial, except some general rules, practices, or institutional arrangements, may be feasible in the long run is more a matter of historical experience rather than theoretical speculation.

NOTES

1. I have borrowed this syntagm from John Gray (1984).
2. Mitrany's belief in the capacity of the human mind to perceive and interpret social facts correctly, without any prior commitment to a theoretical or conceptual scheme or without any reliance on a social theory, seems to be a fair point of criticism. On the logical priority of theory over empirical facts and how even what constitutes a social fact is determined by our theoretical commitments, see Friedrich A. Hayek ([1942] 2014).
3. For Mitrany's criticism of the positivistic turn in international relations, see Mitrany (1971). For Gray's criticism of the new liberalism, see especially the chapters 'Against the new liberalism' and 'After the new liberalism,' from *Enlightenment's Wake* (Gray 1995).
4. At this point, every liberal political theory faces a dilemma: on the one hand, if the free choice of individuals is prioritized absolutely over other values, such as the preservation of a tradition, of a community, or of certain ways of

life, for example, then the negative externalities for the entire social order, beyond some threshold, may dangerously shake the very foundations of that order. These kinds of externalities, resulting from the pure exercise of free choice, cannot be so easily curbed by a Pigouvian tax or Coasian bargaining. On the other hand, if it does not prioritize free choice over other values, then a form of paternalism is introduced into the system because such an alternative necessarily presupposes the existence of an elite class or a group of wise men who have to decide which parts of the tradition should be preserved and which ones can be replaced, which forms of life should be encouraged and which ones should be discouraged, and so on and so forth.

5. Gray used the term 'post-liberalism' in *Post-liberalism: Studies in Political Thought* (1993), 'agonistic liberalism' in *Enlightenment's Wake* (1995), and 'modus vivendi' in *Two Faces of Liberalism* (2000).
6. *Liberalism* (1986, p. 93) ends with the following sentence: "For it is in the works of the classical liberal thinkers that we have the most profound reflective response to the dangers and opportunities of the modern age."
7. Gray boldly states that "liberal regimes may sometimes satisfy the minimum universal requirements of morality less well than some non-liberal or post-liberal regimes do" ('Agonistic liberalism,' in *Enlightenment's Wake*, 1995, p. 82).
8. In Gray's words, "A regime can be highly legitimate without honoring values that are distinctively liberal" (*Two Faces of Liberalism*, 2000, p. 110).
9. The account of his post-liberal approach is most clearly articulated in the essay 'What is dead and what is living in liberalism' (*Post-Liberalism: Studies in Political Thought*, 1993, pp. 283–328).
10. For an alternative thesis regarding the nature and the purpose of liberalism, see Judith N. Shklar, 'The liberalism of fear,' in Rosenblum (1991).
11. As Gray says, "liberal orders have, then, no universal or apodictic authority, contrary to liberal political philosophy" (*Two Faces of Liberalism*, 2000, p. 284).
12. The first step toward this new position was taken in *Enlightenment's Wake: Politics and Culture at the Close of the Modern Age* (1995). Afterwards, it was fully articulated in *Two Faces of Liberalism* (2000).
13. For a discussion about why incommensurability of values and ultimate goods should not be confused with relativism and subjectivism, see *Two Faces of Liberalism* (2000, pp. 48–49).
14. It is true that intractable and inescapable moral dilemmas became one of the central focuses of moral theory only after World War II, when moral philosophy gradually departed from the logical analysis of moral language, which had been the prevalent way of doing moral philosophy ever since the beginning of the 20th century, and consequently turned to a substantial moral analysis, where moral problems and life conduct became again the proper object of moral philosophy. But it is not a revolutionary turn at all. Casuistry was an approach to moral philosophy and theology, which had developed in both Catholic and the Protestant traditions since the 16th century, and recognized

- the reality of tragic moral dilemmas. Casuistry deals with ‘cases of conscience’ where there is no single moral solution for moral dilemmas, but there are multiple solutions that involve different trade-offs. The fact that there is a renewed interest in casuistry among moral philosophers can be proved by the publication of such books as *The Abuse of Casuistry: A History of Moral Reasoning* (1990), by Albert R. Jonsen and Stephen Toulmin, or *The Context of Casuistry* (1995), edited by James F. Keenan, S.J. and Thomas A. Shannon.
15. For a criticism of Gray’s stance on value pluralism, see Rasmussen and Den Uyl (2005).
 16. This idea is articulated at length in the first chapter of *Two Faces of Liberalism*, ‘Liberal Toleration,’ pp. 1–33.
 17. These sentences resume the ideas Gray explored in the last chapter of his *Two Faces of Liberalism*, ‘Modus vivendi,’ pp. 105–139.
 18. For a critical review of Gray’s political ideas, see Horton and Newey (2007).
 19. For international relations theory, the field of study to which he devoted almost his entire academic life, one can see *The Progress of International Government* (1933), *A Working Peace System* ([1943] 1966), and *The Functional Theory of Politics* (1975). For political sociology, one can read *Marx Against the Peasant: A Study in Social Dogmatism* (1951). For economic history of Eastern Europe, one can see *The Land and the Peasant in Romania: The War and Agrarian Reform* (1930) and *The Effects of the War in South-Eastern Europe* (1936).
 20. For more details about Mitrany’s interpretation of the relationship between modern world and the rise of the Administrative State, see Mitrany (1937).
 21. See, for example, Wagner (2016, 2019).
 22. While Gray’s intellectual evolution could be easily traced – and I have sketched that evolution in Section 2 of this chapter – in Mitrany’s case, the development of his functionalist ideas was smoother, mainly because it did not involve any major break with his previous thoughts. For more details about Mitrany’s evolution of ideas, one can see ‘The making of the functional theory: a memoir,’ in Mitrany (1975), pp. 3–82.
 23. Elinor Ostrom has been investigating throughout her academic life how people craft proper institutional arrangements, fitted to their particular circumstances. For more details, see Ostrom (1990).
 24. For more details, see Hayek (1979).

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PART II

Exploratory case studies

4. Embracing polygamy: a modus vivendi response to the human rights position

Rebecca Yemo

1. INTRODUCTION

Polygamy, a long-standing practice around the world, has faced considerable backlash over the years for being a violation of human rights, especially women's rights. Not surprisingly, therefore, states where this practice is prevalent have faced pressure from the international community to eradicate and criminalize this act. The United Nations (UN) Universal Periodic Review (UPR) has served as one of the mediums for the international community to encourage the abolishment of this practice. In 2006, the United Nations General Assembly (UNGA) passed a resolution leading to the creation of the UN's latest human rights monitoring mechanism known as the UPR (UN Human Rights Council, n.d.). The UPR occurs every four and a half years, and its goal is to advance human rights protection efforts on a country-by-country basis in order to safeguard global human rights protection. During reviews, in which all 193 UN member states participate, states issue recommendations to a given state under review concerning measures needed to safeguard a given human right or address ongoing rights violations. States are then expected to take the necessary steps to implement these recommendations and provide feedback on their implementation efforts in subsequent cycles.

As a UN member state, Ghana has participated in the UPR process and has undergone four reviews. Notably, among a wide variety of issues addressed in the recommendations issued to Ghana, the issue of polygamy came up in Ghana's first and third cycle reviews. Specifically, in the first cycle, Slovenia recommended that Ghana "effectively implement measures aimed at eliminating polygamy" (UNGA 2008, p. 10). Similarly, during the third cycle review, Argentina recommended that Ghana "deepen efforts to prevent and sanction harmful traditional practices, such as [...] polygamy, guaranteeing the protection and rehabilitation of victims" (UNGA 2017, p. 23). While

recommendations concerning polygamy are not rampant or a significant part of the hundreds of recommendations issued to Ghana in its four reviews (I identified only the aforementioned two recommendations), the fact that some states classify polygamy as a human rights abuse that must be eliminated and sanctioned raises questions of whether polygamy is a human rights issue or simply a matter of learning how to accept and live with deep differences.

Using Ghana as a case study and relying on the *modus vivendi* framework, this chapter argues that the notion that polygamy violates women's rights because it deprives them of the opportunity to equally have multiple husbands is based on a narrow conception of equality and an erroneous framing of polygamy as solely an issue of equality. Furthermore, both polygamy and monogamy serve as fertile grounds for a variety of women's rights violations. Therefore, rather than encouraging states to criminalize and eradicate the practice, efforts must be aimed at accepting it as a form of marriage that may be unpopular in some cultures but acceptable in others. This chapter delves into how Ghana has been able to allow polygamous marriage to coexist with monogamous marriage. It also examines how Ghana regulates the practice and ensures that the rights of women in such marriages are protected. Ultimately, this chapter emphasizes that it is possible to coexist with and accept deep differences, specifically in terms of the different perspectives on marriage. As a result, sometimes, especially in the case of some culturally and religiously accepted practices, the international community may have to accept that human rights have to accommodate some contextual, cultural, and religious differences. I begin by presenting the origins of polygamy with a focus on Africa. I then discuss the two sides of the debate with advocates and scholars, on the one hand highlighting polygamy as a human rights violation while others, on the other hand, make a case for polygamy or address the challenges of criminalizing the act. Subsequently, I address the flaws in the argument against polygamy. The next part of the chapter provides an overview of polygamy in Ghana followed by a discussion of Ghana's approach to polygamy through the *modus vivendi* framework. To conclude, I discuss the possibility of living with differences by embracing polygamous marriage while still safeguarding women's rights.

2. OVERVIEW OF POLYGAMY

Polygamy refers to the practice of marrying more than one spouse, and polygyny, which refers to men marrying more than one woman, is more common and widespread than polyandry, the situation where a woman can marry multiple husbands. As a result, generally, discussions concerning polygamy focus on polygyny. In many ways, the fact that many cultures around the world embrace polygyny rather than polyandry stems from the inherently patriarchal world in which we live. This patriarchal environment either prohibits women from

engaging in polyandry or, even in cases where it is not prohibited, neither men nor women may be interested in engaging in such a marriage. This is further supported by Dlamini (1989) who stated that in South Africa (at the time writing), polyandry was not a crime; however, it was not practiced because men would not want to engage in such a marriage. Polygamy is a widespread global practice that has a long history which can be traced back centuries (Amissah and Amporful 2018; Damtie et al. 2021). It is, therefore, not a recent phenomenon. Furthermore, while it is more prevalent in sub-Saharan Africa than in other regions (Damtie et al. 2021), it continues to remain a global practice. For instance, it continues to be practiced in Asia, the Middle East, Western states like the U.S. and Canada, and European states such as Germany and Russia (Kramer 2020).

Nwoye (2007) identifies two forms of polygamy practiced in sub-Saharan Africa: interventive polygamy and affluent polygamy. The latter is based on the attainment of economic goals or social prestige. On the other hand, interventive polygamy is based on a “response to family stress” (p. 384). Based on these two forms of polygamy, there are several reasons why people opt to engage in this practice. To begin, polygamy is considered a way to strengthen the family by ensuring that the family lineage is maintained (Amissah and Amporful 2018). The authors add that polygamy enhances the labor force needed for families to embark on agricultural activities due to the high number of children born out of such marriages. Baloyi (2013) further adds that the children born out of polygamous marriages become an economic asset due to their labor contributions to agricultural work. According to Amissah and Amporful (2018), some further argue that polygamy makes it possible for women to advance in their careers since they can share household labor with their co-wives. Baloyi (2013) highlights other factors that encourage polygamy in African societies. These include polygamy as a solution to address infertility among women; preserve the marriage after women reach the menopausal phase by allowing men to marry other women; reduce incidents of immorality and divorce when a woman is pregnant or nursing; address instances of sexual incompatibility between a couple; enable a man to find sexual satisfaction in instances where his wife suffers from poor health; prevent the social exclusion of unmarried women; and ensure that widows could be taken care of through levirate marriage. Levirate marriage, which is also known as wife inheritance, occurs when a widow marries the brother or other male relative of her deceased husband (Kudo 2021, p. 1). With some understanding of this practice as well as the various reasons why people opt to engage in it, the next section presents the discussion of polygamy as a human rights violation, highlighting two sides of this debate.

3. POLYGAMY AS A HUMAN RIGHTS VIOLATION?

The movement against polygamy stems from three main perspectives, namely the critical morality perspective, the theological view, and the human rights perspective (Dlamini 1989). The latter is the focus of this chapter. The issue of polygamy as a human rights violation is hotly contested, with some scholars citing how the act violates the rights of women and children and, by extension, why it should be criminalized and abolished. On the other hand, others also shed light on the dangers of abolishing or criminalizing the act.

Providing insights about whether polygamy should be legalized or criminalized in South Africa, Dlamini (1989) argued that attempts to abolish the practice would result in illegitimate children or “be ineffective” (p. 343). Furthermore, it would “lead to people who are not really criminals being branded as criminals.” In this sense, the author argues that polygamy must be left to “die a natural death” because this is possible so long as women decide to no longer engage in the practice. To some extent, this process is already underway since evidence suggests that there is a general decline in polygamy. For instance, Fenske (2015) states that in Africa, there has been a decline in polygamy over the past 50 years. In a much later publication discussing the need to recognize polygamy as a form of civil marriage in the United States, Calhoun (2005) stated that the contention that polygamous marriages are oppressive to women does not hold because similarly, monogamous marriages can equally become oppressive to women. The author further indicates that the unwillingness to legally recognize or accept polygamy exposes women in such marriages to further oppression and harm because they do not have the opportunity to legally obtain a divorce and by so doing, are unable to obtain alimony and a fair distribution of property. To some extent then, not legally recognizing polygamy as an accepted form of marriage perpetuates the violation of women’s rights.

On the other side of the debate, the international community and other scholars have sounded the alarm that polygamy is a human rights violation that affects the rights of both women and children. On the international level, although international human rights instruments do not specifically categorize polygamy as a human rights abuse, some human rights treaty bodies have issued General Recommendations that classify the practice as a violation of women’s rights. In 1994, the Committee on the Elimination of All Forms of Discrimination Against Women, responsible for monitoring compliance with the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), a convention that Ghana is a party to, issued General Recommendation No. 21 and stated under Article 16 that:

Polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited. The Committee notes with concern that some State parties, whose constitution's guarantee equal rights, permit polygamous marriage in accordance with personal or customary law. This violates the constitutional rights of women, and breaches the provisions of article 5 (a) of the Convention. (CEDAW Committee 1994, p. 4)

Similarly, much later on in 2000, the Human Rights Committee, the treaty body in charge of monitoring compliance with the International Convention on Civil and Political Rights (ICCPR), of which Ghana is also a party, issued a general comment that concluded that polygamy is a violation of women's rights, calling for its abolishment (UN 2008). According to the Committee:

It should also be noted that equality of treatment with regard to the right to marry implies that polygamy is incompatible with this principle. Polygamy violates the dignity of women. It is an inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist. (p. 232)

Finally, as discussed in the Introduction, in recent times, the UPR recommendations have also become an avenue for the international community to encourage or put pressure on states to abolish and criminalize this practice. These instances demonstrate that, on the international stage, polygamy is shunned and globally considered a form of human rights violation because of its inherent discriminatory feature that bars women from equally having the choice to marry multiple men. Fundamentally, therefore, polygamy drives gender inequality.

Some scholars have also gone beyond the claim of inequality, proffering a variety of ways that the act violates the rights of both women and children. Jonas (2012, p.148), for instance, contends that the act violates women's right "to dignity, equality, health, and equal protection under the law," and further worsens their socio-economic well-being. Gaffney-Rhys (2012) also states that polygamy can result in forced marriages, implying that it deprives women of the opportunity to consent to marriage; exposes women in such marriages to physical abuse and violence as a whole, which in some cases can be equated to torture, or inhuman or degrading treatment; and violates their right to health, dignity, privacy, and an adequate standard of living. Similarly, Schnier and Hintmann (2000) contend that polygamy contributes to the spread of HIV/AIDS among women; negatively impacts women's mental health; puts them at risk of domestic violence; impedes a woman's ability to choose her professional path; and results in women losing their freedom of association.

In terms of its impact on children, Brooks (2009) states that polygamy places children in such families at a higher risk of violence and sexual abuse.

Additionally, Schnier and Hintmann (2000) suggest that it limits their financial and emotional support. Without belaboring the point, human rights experts and scholars have identified various ways in which polygamy infringes upon women's rights and, to some extent children's rights. As a result, they emphasize that the practice is inconsistent with human rights protection efforts and as such ought to be abolished and/or criminalized. With a focus on its purported impact on women, the section that follows discusses why this argument is flawed.

4. THE CASE FOR POLYGAMY

Making the case for polygamy is based on three key factors. The first is the narrow conception of equality advanced by advocates, scholars, the international community, and other entities that are against the practice. The second is the erroneous framing of polygamy as solely an issue of equality. The final factor is based on the fact that polygamy does not violate the rights of women any more than monogamous marriages.

To begin, critics who suggest that polygamy violates women's rights by depriving them of the right to equality have a limited focus on what equality entails because one can argue that giving women the choice to practice polygamy fosters equality and freedom of choice, even if opting into polygamous marriages negatively impacts the equality of the women involved. There is no denying that polygamy, by virtue of the fact that in most cases it excludes women from equally having multiple husbands, violates the principle of equality, which is a central tenet of human rights. This is, however, not the only practice where this challenge persists because women continue to experience inequality in the labor force, political participation, and education, among others. This limited scope of equality suggests that education, participation in the labor force, and political participation must be abolished and criminalized as well. However, a more expanded view of equality suggests that giving women the option to opt into such marriages provides them with the freedom of choice, which also fosters equality. Freedom of choice in this sense refers to women having the option to choose polygamous marriages without fear of any consequences or legal ramifications.

Another issue has to do with the erroneous framing of polygamy as solely an issue of equality. The argument that polygamy violates women's right to equality because women are prohibited from engaging in polyandry while men can practice polygyny is flawed. This is because it is based on the assumption that, in all cases, women are prohibited from engaging in polyandry. This is, however, not the case because it is possible that women may choose not to engage in polyandry even if they are not prevented from doing so. As Dlamini (1989) indicated, even though women were not prohibited from having multiple

husbands in South Africa, polyandry was not practiced. Considered this way, abolishing or criminalizing an act because others may not be interested in engaging in it for a variety of reasons is problematic.

Furthermore, polygamy does not violate the rights of women any more than monogamous marriages do. By extension, therefore, monogamous marriage is not the ideal marriage that safeguards women's rights. Firstly, on the issue of violence and forced marriage as discussed by Gaffney-Rhys (2012), domestic violence exists in both monogamous and polygamous marriages. To what extent the act is more prevalent in one form of marriage than the other remains to be seen; however, given that domestic violence is prevalent in both cases, it is evident that it is not a feature solely of polygamous marriages. Forced marriages also occur in both monogamous and polygamous marriages. The underlying factors here are consent and the age of the woman, not the number of women married to a man. Therefore, the argument that polygamy fuels forced marriages is weak at best. As a case in point, a 2023 study carried out in Ghana found that women aged 30 years and above were over 500 percent more likely to engage in polygyny than those aged 15–19 (Alhassan 2023). This suggests that, at least in Ghana, polygyny is prevalent among women who are old enough to give consent. Similarly, a study involving the Anlo people of the Volta region of Ghana suggests that most women in polygamous marriages willingly agreed to be in such marriages and were not coerced into it (Amisshah and Amporful 2018). In this sense, unless they are coerced, women in such marriages exercise freedom of choice by opting into such marriages.

With regard to the issue of health, as argued by Schnier and Hintmann (2000), Jonas (2012), and Gaffney-Rhys (2012), specifically with regard to sexually transmitted diseases (STDs), such risks are equally present in monogamous marriages, especially in cases where both men and women in monogamous marriages engage in extramarital affairs or have engaged in sexual acts prior to marriage. In terms of the loss of the right to privacy that Gaffney-Rhys (2012) alludes to, any form of marriage comes with some loss of privacy. Once all parties involved have consented to be in a polygamous marriage, it is implied that all parties involved will sacrifice some level of privacy. However, this is similar to monogamous marriages, whereby a couple understands that marriage includes some loss of privacy.

Finally, with regard to the deprivation of an adequate standard of living or socio-economic well-being, which Gaffney-Rhys (2012) and Jonas (2012) discuss, this has more to do with the financial capabilities of the individuals involved in the marriage and/or the husband's decision to be responsible for the well-being of his wife/wives and less about the number of people in the union. This is because even in monogamous marriages, women, especially stay-at-home wives or unemployed wives, stand the risk of an inadequate standard of living or socio-economic well-being, especially if their partners are either

financially incapable or unwilling to provide adequately for them. While it may be argued that a man with multiple wives has multiple responsibilities, the same argument can be made that in cases where all wives are financially independent, there may be more money for all individuals involved in such marriages. Polygamy, therefore, does not equate to worsened socio-economic well-being or a decline in standard of living. There are more factors that could contribute to such a dire outcome aside from the number of partners in a given marital union.

To summarize, while polygamy more often than not excludes women from equally having multiple husbands and by doing so goes against the human rights principle of equality, an expanded view of equality suggests that giving women the choice to practice polygamy fosters the freedom of choice and, by extension, advances equality. Additionally, the erroneous framing of polygamy as solely an issue of equality is flawed because, in some cases, even if women are not prohibited from engaging in polyandry, they may still decide not to engage in the practice. Finally, the argument that polygamy affects a woman's ability to enjoy other aforementioned rights does not justify its criminalization or abolishment because these risks or challenges are equally present in monogamous marriages. In this sense, advocates for the abolishment and criminalization of polygamy ought to extend their argument to include the institution of marriage as a whole, since monogamous marriages are no better at safeguarding women's rights. With a better understanding of the weaknesses in the arguments advanced against polygamy, the next section provides a discussion about how polygamy is practiced and regulated in Ghana.

5. BACKGROUND OF POLYGAMY IN GHANA

Before delving into an overview of polygamy in Ghana, it is important to understand why Ghana serves as an appropriate case for this discussion. As mentioned in the Introduction, Ghana has faced pressure from the international community through the UPR process to criminalize and eradicate polygamy because it violates human rights. However, in a world where states are quick to criminalize polygamy or are not inclined to provide it legal recognition, Ghana has been successful in ensuring that despite international pressure, polygamy co-exists with other forms of marriage by granting it legal status and recognition. Furthermore, the practice is embraced by some sections of the Christian population, despite the fact that it goes against the principal tenets of the Christian religion. These two notable instances demonstrate that Ghana has made strides in finding a balance in how best to govern deep differences regarding beliefs and preferences about marriage. As such, Ghana serves as an appropriate case study of how other states in sub-Saharan Africa and beyond can equally navigate the issue of polygamy. It also serves as a meaningful

example of how human rights can still be advanced with consideration of the unique cultural context of a given society or population.

Polygamy in Ghana has a long history rooted in religious and cultural values and beliefs. Prior to colonization, marriage in Ghana was guided by customary laws and norms, and polygamy was a core feature of Ghanaian marriages (Adjei and Mpiani 2023). Given that customary marriages are polygamous, and all ethnic groups in Ghana practice customary marriage, albeit in diverse ways, it can be said that the various ethnic groups in the country allow men to marry more than one wife. Furthermore, from a cultural perspective, men and women who engage in polygamous marriages can be considered as exercising their cultural rights. On the religious front as well, the Islamic religion, which is practiced by 20 percent of the population (United States of America Department of State 2022) allows men to marry more than one wife. Hence, the ability to engage in polygamy can be considered a crucial aspect of a Muslim's religious right. It must, however, be noted that polygyny is on the decline in Ghana (Depbuur 2005 as cited in Heaton and Darkwah 2011). According to Alhassan (2023), a 2017/2018 demographic and health survey study indicates that polygyny is practiced by 21.6 percent of the population.

Bowan (2013) sheds light on the three forms of legally accepted marriages in Ghana, namely marriage under the Marriage Ordinance (civil marriage), marriage under customary law, and marriage under the Mohammedans Ordinance (Islamic marriage). Under the Marriage Ordinance, a man can only marry one wife; hence, this is a strictly monogamous form of marriage. However, under customary marriage, a man can choose to marry one or multiple women, fostering polygamy. The author further adds that most marriages in Ghana are customary marriages. Additionally, the legal system does not recognize an additional customary marriage that takes place while there is a pre-existing marriage under the Ordinance with a different spouse (Bowan 2013). The pre-eminence accorded to marriage under the Ordinance also comes with its own set of challenges. For instance, as Bowan (2013) further discusses, when customary marriages are not recognized by law due to a pre-existing ordinance marriage with another spouse, women in the nullified customary marriage end up losing property rights and support for their children.

Notably, it is not uncommon for people to be married under both the customary law and Marriage Ordinance. As Schnier and Hintmann (2000, p. 800) state, “[m]any Ghanaian couples marry under the Marriage Ordinance only after entering into a customary or religious marriage first.” These varied forms of marriages can therefore co-exist alongside each other despite the significant differences. Furthermore, in polygamous marriages, wives ought to be informed and duly compensated for the man's decision to marry an additional wife (Bowan 2013) and this is the case as well with Mohammedan Ordinance marriages (Schnier and Hintmann 2000).

6. GHANA'S NAVIGATION OF POLYGAMY AS A MODUS VIVENDI

Modus vivendi, an idea that stems from the liberal school of thought, is based on

the belief that there are many forms of life in which humans can thrive. Among these there are some whose worth cannot be compared. Where such ways of life are rivals, there is no one of them that is best [...] Modus vivendi accepts that there are many forms of life [...] in which humans can flourish [...] no kind of life can be the best for everyone. (Gray 2000, p. 5)

A modus vivendi approach to addressing differences in societal preference, way of life, values, and beliefs therefore consists of tolerating and living with differences rather than imposing a given society's values or preferences on others as the only or best option. A modus vivendi approach implies that "liberalism can no longer be identified with particular values" (p. 138). By extension, it questions the universality of rights by interrogating why a specific set of rights cannot be applied to all people without accounting for differences or variations in how these rights are manifested. In the context of marriage, Ghana's approach to addressing polygamy is evidence of modus vivendi at work in two ways: firstly, through the legal system, and secondly, through the acceptance of customary marriage by some sections of the Christian population.

6.1 The Legal System

Of the three forms of marriage that exist in Ghana, two of them, namely customary marriage and Islamic marriage, are polygamous while marriage under the Marriage Ordinance is monogamous. The first critical element of modus vivendi exhibited is that there is legislation that recognizes all three forms of marriage and, by extension, supports and protects individuals in these marriages. By recognizing all three forms of marriage in the legal system, polygamous marriages can coexist alongside monogamous marriages, and interested parties can decide which form of marriage they prefer, knowing full well that they have legal protection regardless of their choice.

The Marriages Act (1884–1985), also known as CAP 127, provides legal protection for individuals involved in any of the aforementioned three forms of marriage by virtue of the fact that all three forms of marriage can be legally registered and hence, considered valid. Notably, under this law, the two forms of polygamous marriages, namely the customary and Mohammedan marriage, have a due process of divorce as well. Furthermore, under the Marriages Act, succession and property rights for customary marriage are also safeguarded by

the Intestate Succession Law 1985 (PNDCL 111). For Mohammedan marriage, succession is based on Mohammedan law. Rather than criminalizing or abolishing polygamous marriage, Ghana has taken the necessary steps to enshrine this form of marriage into law to ensure that parties in such marriages can be adequately protected. By so doing, these two forms of polygamous marriages have the same legal recognition as marriage under Ordinance.

It is quite common for most Ghanaians to engage in both customary marriage and marriage under Ordinance as noted by Schnier and Hintmann (2000). However, in such cases, the monogamous element of the Marriage Ordinance supersedes the polygamous element of customary marriage, barring men in such marriages from having multiple wives. Therefore, while all three forms of marriage have legal status, when combined, marriage under Ordinance supersedes the other two primarily because it bars polygamy. The point here is that Ghanaians have a choice in deciding which of the three forms of marriage they intend to embark on and furthermore, they can combine either Islamic marriage or customary marriage with civil marriage if they prefer. Rather than making monogamous marriage, namely marriage under Ordinance, the only form of acceptable or legally recognized form of marriage, Ghana has found a way to give both polygamous and monogamous marriages equal footing in the legal system despite the inherent differences between them. *Modus vivendi* is not only exhibited in the legal sense but also in the religious sense, especially with regard to how some Christians embrace polygamy.

6.2 Unlikely Match? Christianity and Polygamy

In Africa, Christian churches are divided into three categories, namely the Pentecostal churches, the missionary-initiated churches, and the African Independent Churches (AICs) (Baloyi 2013). Focusing on the latter two, the author indicates that each of them has different views on polygamy. According to the author, the missionary-initiated churches promoted the norm of monogamy. As such, men with multiple wives who wanted to become Christians had to choose one wife and sever relations with the other wife or wives. This policy negatively impacted the progress of these churches and forced some Christians to join other denominations like the AICs (Jenkins, 2010). AICs were more open to polygamous marriages given that not all of them “require a polygamist to dismiss all but one of his wives in order to join the church, because the African epistemology differs from the Western epistemology and recognises both monogamous and polygamous unions as indissoluble” (Baloyi 2013, p. 174). Furthermore, according to Bryuns (1998), some Christians in Africa accept polygamy because it is not considered an evil act, but rather a practice that “is acceptable in the African context.” In many ways then, the acceptance of polygamy by some Christian denominations is linked to the maintenance of

cultural and traditional values or belief systems that have long been in existence before Christianity was introduced by missionaries.

In Ghana, Christianity is the most widely practiced religion, with about 71 percent of the population identifying as Christians (United States of America Department of State 2022). Christianity as practiced in Ghana is strictly monogamous in most Christian denominations. However, it is not uncommon in Ghana for most couples to undergo customary marriage rites, which, as has been discussed, are polygamous before they solemnize their marriage in church, and this is, in fact encouraged by at least some churches. For example, in the Presbyterian denomination, it is expected that customary marriage rites are performed before the church solemnizes the marriage and issues the marriage under the Ordinance certificate. Representatives from the leadership of the branch where one fellowships are also appointed as witnesses to attend the customary marriage ceremony. Furthermore, a recent study indicates that 12.2 percent of the Christian population in Ghana is engaged in polygyny (Alhassan 2023). However, this varies from denomination to denomination, with prevalence being higher among Anglicans and Catholics than Methodists, for example.

This demonstrates that although polygamy is not fundamentally encouraged among most Christians, some Christians still recognize the place and role of customary marriage and, as such, engage in customary marriage which is inherently polygamous. Considered this way, customary marriage is practiced alongside civil marriage as a way to uphold cultural norms. This co-mingling of religious beliefs with cultural beliefs when it comes to marriages in Ghana is a testament to the fact that marriage has attained a *modus vivendi* status in Ghana. It could be that while most churches in Ghana may not support polygamy, they recognize that because all Ghanaians belong to one ethnic group or another and customary marriage, which is linked to the cultural practices of ethnic groups, preceded civil marriage, it is necessary to respect customary marriage rites to foster peaceful co-existence. By so doing, the church's religious beliefs are able to co-exist alongside traditional and cultural beliefs without much tension. Furthermore, it also explains why some churches find a way to embrace individuals involved in polygamous marriages rather than alienate them.

In Ghana, the recognition of polygamous marriages in the legal system, as well as the welcoming attitude of some Christians toward customary marriages that are inherently polygamous, demonstrates that "living with difference is not about giving up one's deeply held (perhaps even moral) beliefs to live in community with another. It is about recognizing that some things cannot be shared, but also need not be resolved in order to share with others in community" (Seligman and Montgomery 2019, p. 7).

6.3 Criminalizing or Abolishing Polygamy as a Threat to a Sense of Belonging

Advocates for the criminalization and abolishment of polygamy in the name of human rights fail to understand that, to some extent, polygamy is tied to religious and cultural beliefs. Therefore, for some, having the option to engage in this practice is a fundamental aspect of having a sense of belonging to an ethnic or religious group. This need for a sense of belonging, therefore, far outweighs their interest in ensuring that their actions align strictly with universal definitions of human rights. As Seligman and Montgomery (2019, p. 2) contend, “[b]y making human rights the highest and most noble of our social and political virtues, liberalism has all too often denied, denigrated, or simply turned a blind eye to other, equally significant human needs and visions of the good.”

This is, however, not to suggest that in Ghana, as well as other states where polygamy is practiced, the need to have a sense of belonging in a given ethnic or religious group should be an excuse to violate women’s rights. On the contrary, polygamous marriages, like monogamous marriages, must be in line with the laws of the land that protect women from all forms of violence, harm, and deprivation. Therefore, the question should not be about abolishing or criminalizing polygamy but rather how best this form of marriage can be accommodated while ensuring that the challenges that come with it are appropriately addressed. In other words, “while a continued advocacy of human rights may well be necessary, rights by themselves are a far from sufficient condition for human flourishing and satisfying the need for roots; a sense of belonging must be accommodated if we are to be spared a replay of some of the worst horrors of the last century” (Seligman and Montgomery 2019, p. 5).

7. THE WAY FORWARD: LIVING WITH DIFFERENCES WHILE SAFEGUARDING WOMEN’S RIGHTS

The practice of polygamy has been widely condemned as a women’s rights violation, and, as a result, human rights advocates, scholars, and the international community have repeatedly put pressure on states like Ghana where the practice exists to criminalize, prevent, and eradicate the act. Using Ghana as a case study, this chapter has argued that the idea that polygamy violates women’s rights because it deprives them of the opportunity to equally have multiple husbands is based on a narrow conception of equality and an erroneous framing of polygamy as solely an issue of equality. Furthermore, both polygamy and monogamy serve as fertile grounds for a variety of women’s rights violations. Therefore, rather than encouraging states to criminalize and eradicate

the practice, efforts must be aimed at accepting it as a form of marriage that may be unpopular in some cultures but acceptable in others. Ultimately, the goal must be to learn to live with differences no matter how uncomfortable they may be while also ensuring that the rights of women and children in polygamous marriages are adequately protected. So, how can this be done?

As has been amply discussed, Ghana has already begun this process by giving polygamous marriages legal recognition. Furthermore, even in the Christian religion where polygamy is largely discouraged, some denominations still recognize and encourage customary marriage which is often performed alongside the marriage under Ordinance, where the church is licensed to issue the marriage certificate. Additionally, some Christians are involved in polygamous marriages. Evidently, different societies in Ghana have learned to live with the many differences that exist between polygamous and monogamous marriages. Ghana's approach of legalizing polygamous marriages can, therefore, be adopted in other states with polygamous populations. It seems, however, that the international community still struggles to accept Ghana's approach in allowing multiple forms of marriage to co-exist. Therefore, the international community ought to learn to embrace countries like Ghana where polygamy is practiced, rather than putting pressure on them through UPR recommendations, for example, to abolish or criminalize the act. While Ghana's approach to marriage contradicts the international community's perfect definition of human rights, it must be accepted that it is the country's approach to ensure that people still have a sense of belonging and the ability to enjoy their cultural and religious rights. Ghana's approach gives individuals the freedom of choice to select from a variety of forms of marriage. One might even say that this approach advances a woman's ability to exercise agency in deciding what form of marriage she prefers.

In the past and to date, women's exclusion from participating in education, politics, and the workforce has not been addressed by criminalizing or abolishing these activities. Even in present times, despite ongoing efforts, inequalities persist in these spheres, yet they have not been made grounds for criminalizing these activities. On the contrary, the solution to address these gender inequities has been to take steps to enable women to effectively participate in these spaces or activities. Similarly, since the issue of polygamy, as has been discussed, is to some extent an issue of gender inequality or discrimination, a more reasonable approach would be to challenge existing religious and cultural norms that prevent women from engaging in polyandry. Arguably, in reality, this may be harder to realize for a variety of reasons. Yet, there are still several measures that can be taken to safeguard women's rights even in polygamous marriages. Ghana, as well as other states where polygamy is practiced, has a duty to ensure that women's rights are adequately protected even within the confines of polygamous marriage. In this sense, legislative and other policy

measures that protect women from domestic violence and forced marriages, safeguard their physical and mental health, ensure that their socio-economic well-being is not compromised, and that their property and succession rights are not denied, must be strictly enforced in both monogamous and polygamous marriages. This is where human rights advocates can have more of an impact, that is, by ensuring that women in polygamous marriages are adequately protected. Ultimately, as Abhulimhen-Iyoha (2023, p. 73) concludes, “whatever polygamy was about and is about, it remains the inalienable rights of adults to determine how to live.” Human rights should therefore not be used as a tool to deprive consenting adults of the freedom of choice regarding marriage.

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5. Blockchain contractualism as *modus vivendi*: a praxis for reconfiguring post-colonial state-building

Kaleb Demerew

1. INTRODUCTION

Top-down, centralized, and interventionist approaches are the hallmarks of contemporary development practice. In keeping with theories of liberal state-building, policymakers have prioritized democracy as the end-goal of state-building, then attempted to bring it about through the aid-driven importation of politico-legal institutions (Carothers 2007; Jones et al. 2013; Massoud 2014). Although the merits and drawbacks of this approach are beyond the scope of this chapter, it is clear that these approaches have, to varying extents, undermined bottom-up and emergent approaches to constitutionalism and state-building in the post-colonial world.

Initial hopes that emerging technologies such as information and communication technology (ICT), blockchain, and artificial intelligence (AI) would empower bottom-up transactions and institution-building have not yet fully materialized. This is partly due to what Langley (2020) has called ‘assetization’ or ‘financialized capitalism,’ wherein accommodative monetary policies have directed investment toward commodities and rents, rather than ‘productive’ economic activity. For instance, although blockchain is a transformational technology with a broad array of potential development applications, much of the policy focus on the technology has been directed toward the most speculative and lucrative application, namely, cryptocurrency.

Without an integrated theory–praxis framework, neither the most promising innovations in emerging technology nor the most sophisticated development interventionist schemes can address the foundational state-building gaps in the post-colonial world. As such, there is a need to address the foundational questions of post-colonial state-building through a framework that bridges the theories of post-colonial state-building with policy-relevant development praxis. This chapter is an attempt to craft such a framework.

By integrating blockchain theory with contractualism, the chapter introduces and develops ‘blockchain contractualism’ as a framework for reconfiguring development approaches to address foundational gaps in post-colonial state-building. Blockchain is a decentralized ledger for recording data, establishing ownership, and facilitating transactions in a variety of goods. Contractualism denotes a system constituted of individual citizens engaging in free political, social, and economic transactions. As such, blockchain contractualism is an integrated framework that provides a praxis for how individual–state relations are organically transformed in the process of state-building through bottom-up processes. Through reference to the theory and not just the technology of blockchain, this framework also signals the techno-political processes by which emerging technology can be purposed toward the post-colonial state-building project.

The chapter proceeds in four sections. Section 2 examines the two most enduring challenges in post-colonial state-building, the transactional challenge of establishing sovereignty and the ideational challenge of establishing governance based on reason and persuasion. Section 3 reviews the limitations of social contract models from classical liberalism in addressing these foundational transactional and ideational gaps in post-colonial contexts, making the case for a *modus vivendi* configuration of social contract theory. Section 4 develops blockchain contractualism as a framework encapsulating this *modus vivendi* liberal approach to state-building in post-colonial contexts. Blockchain contractualism addresses the transactional and ideational challenges inherent in establishing sovereignty and reason-based governance, envisaging an emergent state driven by social and economic transactions of individuals with autonomous agency.

This framework is articulated as a ‘second best’ solution to liberal state-building, reimagining state–societal relations through the lens of emerging development technologies, as explored in the praxis-oriented part of this chapter (Section 4). As praxis, blockchain contractualism transcends the conventional utilization of technology as merely a facilitator of administrative or economic functions, taking on a transformative role in redefining citizenship, identity, and the social contract. This reconceptualization challenges the traditional, hierarchical models of democratic development and state-building, advocating for a grassroots reconstruction of societal norms and governance processes. Through the integration of technologies such as blockchain, this praxis institutionalizes the outcomes of individual transactions, nurturing a more harmonious interaction between the post-colonial state and its citizens.

2. POST-COLONIAL STATE-BUILDING AND THE LIMITS OF CLASSICAL CONTRACTARIANISM

I argue that post-colonial state-building has two foundational gaps; foundational in the sense that any development approach must address these gaps as a necessary but not sufficient condition for enacting further development progress. I broadly categorize these gaps into two related components: a transactional gap and an ideational gap. The transactional gap has to do with the post-colonial state's inability to establish its sovereignty, whereas the ideational gap has to do with establishing contractual governance. In this section, I explain in further detail what these two gaps entail and why they are foundational to the process of state-building.

In line with Stiliz (2009), I assume, at the outset, that the modern state's territorial claim to sovereignty is primitive; it is an essential feature of the state that precedes the post-constitutional constructions of institutions and property rights. In this sense, sovereignty ascribes the state's right to an authoritative apparatus, one that is an organic outcome of state–societal interactions, à la the idea of a social contract (Jackson 1986, 1993; Brown 2013). This does not mean, however, that sovereignty cannot emerge organically in a post-constitutional context. Indeed, and this is particularly relevant in the post-colonial context, even contemporary conceptions of national identity emerge through iterative and messy processes of state–society bargains (Wimmer 2013).

In much of the developing world, the state emerged through external recognition, rather than through any organic processes of interaction within a given territory. Here, there is often no historical pattern that justifies the existence of post-colonial states, particularly in contexts of high ethnic polarization or diversity, and sovereignty is purely dependent on a territorial claim to nationhood (Clapham 1999; Jackson and Rosberg 1986). Absent the transactional or contractarian basis for establishing legitimacy, the state resorts to purely coercive measures to legitimize and define the contours of its own existence. Naturally, “states which succeed in maintaining effective control over their own territories, together with economic structures that offer them a stake in the global economy” will be at least marginally successful in legitimizing their sovereign existence (Clapham 1999, p. 537). Even here, however, the basis of this sovereign legitimacy is purely coercive rather than transactional; more importantly, beyond its coercive capability, the state is reliant more on external recognition for its sovereign existence (Jackson 1986, 1993; Clapham 1999; Jackson and Rosberg 1986).

It is easy to conceive of why, in such contexts, issues of ethnic or religious diversity automatically become impediments to development. First, because of colonial legacies, institutions in most developing nations are oriented toward

resource extraction and rent creation (Acemoglu and Robinson 2012). Second, in these contexts, the stakes of state control and elite construction are high, as different identity groups are incentivized to wage war for control over the state's resources and the course of national identity (Lawrence 2010; Wimmer 2013). By extension, control of the state allows parochial groups the power not just to expropriate resources for their own in-group members, but also to define the construction of national identity and exclusion. Third, and along these lines, the state itself becomes "a facade for the promotion of personal, familial, communal, and private interests by people who are only nominally soldiers, policemen, judges, bureaucrats, or members of some other official category" (Jackson and Rosberg 1986, p. 2). In other words, neopatrimonialism, the appropriation of the state apparatus and its resources to satisfy familial and tribal interests, reigns.

These three dynamics all contribute to the entanglements between group identity and conflict. However, I argue that these issues of neopatrimonialism and group competition for state capture are not impediments to state-building but rather predictable outcomes of the stillborn state-building project. They are dependent, not independent variables. The solution to diversity-based conflict in the developing world, then, is also the solution to development ailments such as neopatrimonialism. It begins with a commitment to organic transactional processes of bottom-up state-building.

History shows that technology may play an important role in state-societal interactions, but only when coupled with supportive institutional environments. Technological advancements can lead to socio-economic transformation and the emergence of new industries, necessitating further institutional adaptation (North 1982). This results in changes in economic structures, such as the shift from agrarian to industrial economies, leading to further downstream transformations in social, political, and institutional arrangements (North 1982). These transactional and incentive-driven reconfigurations of individual-state relations can only occur when institutions support innovation, protect property rights, and encourage what Schumpeter (2010) calls 'creative destruction.' This also results in activities of 'co-production' between technology and society, wherein society appropriates technology to satisfy particular needs, and technology, in turn, directly reshapes societal practices, labor markets, and industrial structures (Latour 2005).

To restate, as people use technologies and change and adapt them, the technologies can also shape and reshape the way individuals think and act. This is an important component of blockchain contractualism. In the right institutional environment, technologies throughout history have reconfigured the parameters of the state and scope of individual-state relations, and will continue to do so, a point which bears relevance to the potentially revolutionary impact of technologies like blockchain and AI. By contrast, when coercive institutions

are designed to retain status quo states rather than to encourage the iterative transactional process that defines the scope of individual–state relations, neither policy nor technology can result in meaningful state transformation.

The sovereignty gaps in post-colonial state-building may have more to do with the essence of the state itself rather than with any one agentic variable, such as neopatrimonialism or lack of access to technology. As such, before development theory and practice can address any clearly identifiable impediment to development, they must first contend with the foundational nature of the state itself. The implication is that the essential non-existence of a state may be the main impediment to development. In other words, the post-colonial state lacks the very basic foundations that anchor it in society; the state-building project is not necessarily unfinished but stillborn. We should not, in other words, assume the existence of modern states in much of the developing world, nor that we can engineer the state into existence through top-down, technocratic approaches.

These transactional processes of state–society interaction, that is to say, the contractarian outcomes of bargains based on the provision and demand of capital and violence, are one important piece of the state-building puzzle. In addition, it is very important to identify a secondary non-transactional basis of state-building, one rooted in ideational components. The modern liberal state in Europe evolved not just through transactional processes but also through non-coercive, individual–state relations emphasizing the individual citizen’s internalized mental capacity for responsible self-governance, sometimes referred to as governmentality (Foucault 1991; Okogbule 2008; Amo-Agyemang 2019). Here, the citizen maintains an individual identity in psychological relation to the state. In governance contexts, these relations result in the construction of citizenship, not based on belonging to a nation or a group, but based on the outcome of the state’s provision of the infrastructure for the individual to exist as a transacting autonomous being.

The emerging argument here is that contractualism, a system constituted of individual citizens engaging in free political, social, and economic transactions with one another and with the state, is best suited to address the transactional and ideational gaps of state-building. Contractualism is rooted in Mousseau’s (2013) economic norms theory about the importance of norms that emerge from a market-based exchange; however, my conception of the term is a bit broader and more aligned with classical liberal and *modus vivendi* traditions. By *modus vivendi*, I am referring to a minimally liberal mechanism for allowing the emergence of spontaneous transactions and autonomous identities.

I will consider below the variations of classical social contract theories, their limitations in addressing governance problems in post-colonial states, and reconfigurations in line with *modus vivendi*. Diverging perspectives in contractarian theory are encapsulated in the debates between adherents of

Hobbesian realism and Lockean liberalism. While Hobbes' (1996) *Leviathan* underscores the need for a powerful sovereign to prevent a brutish state of nature, Locke (1988) and Rawls (1999) envision a more equitable society grounded in natural rights and fairness, respectively. This foundational contrast highlights the varying assumptions about human nature and the mechanisms for achieving social cooperation and justice.

In any case, liberal contractarian approaches to state-building encounter inherent limitations when confronted with the realities of power dynamics in post-colonial contexts. Much of the early liberal configurations seem to be premised on the idea that differences were primarily based on moral reasoning and ideological justifications. However, as Aylon Manor argues in Chapter 2, contemporary difficulties in development governance arise primarily from questions of power, sub-rational passions and sentiments, irreducibly partial viewpoints, and social norms and habits.

Classical liberal notions of contract theory do not extend far enough in addressing these realities. On the other hand, pure realist theories might overstep in their rejection of classical liberal contractarianism, by neglecting the importance of autonomous choice and mutual respect in societal organization. This points to the need for a minimally liberal 'second-best' alternative: a *modus vivendi* framework that balances the liberal project of autonomous choice with realist concerns about incommensurability. Blockchain contractualism is presented as a pragmatic embodiment of this approach, aiming to reconcile these diverse needs in post-colonial state-building efforts.

Before developing this framework in more detail, I would like to consider other approaches that have tried to address the liberal–realist gap in contractarian theory. Thomas Scanlon (1998) attempted to bridge this gap by emphasizing the importance of a legitimacy framework for justifying state actions in a way that cannot be reasonably rejected by others. In this vein, Scanlon was the first to move contractarian theory more toward 'contractualism' by adding an ideational dimension to the contractarianism of the classical liberals. This ideational dimension is further specified in Michael Mousseau's more contemporary conception of contractualism.

Another solution to the incommensurability problem is the relational contracting model, which further emphasizes the importance of credibility and clarity in governance through informal agreements based on expectations of future interaction (Gibbons and Henderson 2012). This approach underscores the potential for mutually beneficial outcomes without the temptation of cheating, thereby offering a practical mechanism for addressing the limitations of classical contractarian theories in post-colonial states.

Even more relevant to the blockchain contractualism framework is the idea of creating structures of economic governance outside the formal state apparatus. For instance, Dixit (2007) highlights the potential for alternative forms

of governance to protect property and enforce contracts in the absence of formal institutions. This ‘lawlessness and economics’ (LLE) approach focuses on micro-level governance and the importance of non-governmental economic governance mechanisms, such as arbitration and repeated interaction, for fostering cooperative action. The main distinction between LLE and blockchain contractualism is that the latter is state-affirming, as it envisages the state as an agent with a role to play in societal transactional processes. It is, in other words, more praxis-oriented.

A praxis-oriented framework for development policy would need to account for the state apparatus in post-colonial contexts, which is often already oriented toward coercive control. Indeed, post-colonial states often use centralization tools to subsume spaces in which LLE can enact informal governance. In other words, while it has much in common with blockchain contractualism, LLE does not go far enough in accounting for the centralized state envisaged through Hobbesian realism. Blockchain contractualism is conceptualized here as a praxis-oriented, post-colonial framework for implementing *modus vivendi*, a liberal configuration that addresses deep disagreement about conceptions of good and justice, seeks societal stability and conflict resolution at a minimum, and affirms institutional dynamism (Neal 1993; Rutherford 2021).

Within the *modus vivendi* school, three configurations emerge: the negative liberal approach, which prioritizes excluding undesirable ends rather than seeking agreement on desirable goals; minimalism, which seeks a minimal commitment to a legitimate governing order for bargaining on goods; and partisan liberal realism, which accepts the impossibility of universal agreement but strives for a form of liberalism that benefits the greatest number while tolerating, to the extent possible, those excluded (Sleat 2011). Sleat’s later work (2013) and Horton (2010) acknowledge the challenges against the universality of liberal theories, arguing for a form of legitimacy that resonates with a substantial portion of the population, and the toleration of opponents. Indeed, Horton’s (2010) *modus vivendi* errs more on the side of liberal minimalism, in terms of articulating only a minimum commitment to preserving peace and security.

[I]n pursuing through political means whatever other aims or objectives we may have, we will also generally have very good reasons to seek to avoid levels of disruption and violence that are a serious threat to the existence of a tolerably stable and secure political order. (p. 438)

Horton also acknowledges the challenge of gaining consensus as key to establishing the legitimacy of such a minimally liberal order. In this vein, while *modus vivendi* provides a praxis for a pragmatic and stable endpoint

of state–societal reconfiguration, it does not provide a map-making tool. My hope is that the framework I develop below provides exactly that.

Blockchain contractualism, a framework developed in the remainder of this chapter, seeks to bridge the gap between the theoretical ideals of classical contractarianism and the pragmatic realities of governance in post-colonial contexts. It draws from contractualist liberalism and blockchain theory. Contractualism refers to the economic norms undergirding a society that institutionalizes free transactions among autonomous individuals. Blockchain theory encapsulates how technology can facilitate autonomous political and economic transactions through decentralized mechanisms. Blockchain contractualism, then, envisages a *modus vivendi* that affirms individual autonomous choice while acknowledging the role of the state. Through this synthesis, blockchain contractualism emerges as a ‘second-best’ solution that navigates the complexities of post-colonial state-building, fostering emergent relational identities and establishing a more inclusive and responsive governance model.

While classical liberals envision a society governed by rational contracts, entered into by free and equal individuals under conditions of fairness and mutual respect, blockchain contractualism introduces a more flexible, decentralized approach to social contract theory. Unlike classical liberalism, blockchain contractualism works within the existing frameworks of power. It seeks to mitigate abuses and reduce inequalities through decentralized governance, but it does not necessarily aim to eliminate power differentials outright. It also accounts for the reality that interactions and transactions are not always governed by rational deliberation but are significantly influenced by existing social norms and relationships. Finally, it prioritizes peaceable coexistence and practical governance over the pursuit of idealized, theoretical models of society. In this vein, blockchain contractualism orients itself toward minimalist conceptions of *modus vivendi*, or, as it were, a state-affirming adaptation of LLE.

3. **BLOCKCHAIN CONTRACTUALISM AS A FRAMEWORK FOR POST-COLONIAL STATE-BUILDING**

This section further develops the theoretical underpinnings of blockchain contractualism. It begins with a description of blockchain technology, then explores blockchain contractualism as a framework to examine how various emerging technologies can reconfigure state–citizen interactions, citizenship, and identity, addressing transactional and ideational gaps in post-colonial state-building. Let me first establish the theoretical scope of this framework. I conceive blockchain contractualism as both a framework for post-colonial state-building and a praxis for techno-political integration. I have addressed

the challenges of post-colonial state-building at length in the previous section, so I will add some context here on the subject of techno-political integration.

Broadly speaking, techno-political integration refers to the processes by which politics mediates how developing countries adopt and utilize emerging technologies (Mahoney 2017a). More specifically, techno-political integration determines whether emerging technologies are used to build more contractualist exchange-based systems, or alternatively, whether they are repurposed as instruments of surveillance, coercion, exclusion, or rent creation. I would loosely compare blockchain contractualism's application to techno-political integration to the contributions made by Vincent and Elinor Ostrom's Institutional Analysis and Development (IAD) Framework to institutional design.

In reference to the IAD Framework, Aligica (2013) explained that the Ostroms "do not seek to provide the map of institutional reality, nor, indeed, would they contend that such a broad map can be developed, but rather to provide 'a map-making instrument'" (p. 75). In this vein, the IAD framework provides an instrument for envisaging institutional choice in pre-constitutional, policy-making, and operational (tactical) levels of collective decision-making (p. 75).

Similarly, blockchain contractualism does not seek to provide a general theory for the integration of technology and institutions to create more contractualist orders. Rather, drawing from the ideas of heterodox liberal thinkers, it presents a praxis that can be configured for more specific and context-bounded policymaking. The institutional transformations envisaged through blockchain contractualism in disparate contexts will look different and unfold over different periods of time. Along these lines, the exploration of contractualist institutions here relies on Ostrom's (2005) definition of institutions as "the prescriptions that humans use to organize all forms of repetitive and structured interactions including those within families, neighborhoods, markets, firms, sports leagues, churches, private associations, and governments at all scales" (p. 3). I will discuss the theoretical pillars of contractualism in a bit more detail here.

Contractualism denotes a system that fundamentally addresses the transactional and ideational components of state-building through the institutionalization of emergent orders; the state constitutes its particularized relations with individual citizens through this process (Demerew 2024). Contractualism mirrors the pre-modern negotiations of capital and violence that gave rise to sovereign, legitimate, and organic states in Europe, but without the need to rely on wars. In the contemporary context, contractualism can be encapsulated in the idea that "institutions which came about organically find their continuation and reorganization by means of the purposeful activity of public powers applied to social aims" (Menger 2009, p. 157). The state encroaches upon the

organic transactional processes freely occurring in society, but in doing so, in its most effectual condition, strengthens them (p. 157).

Societal consensus is key to this institutionalization process, which “must be modelled as a process within which individuals, with separate and potentially differing interests and values, interact for the purpose of securing individually valued benefits of cooperative effort” (Buchanan 1986, p. 204). This means that institutions cannot be designed based on predictive models of development economics; rather, in a contractualist polity, institutions emerge through iterative processes of bargaining and through codification of preferences and informal contracts.

Under contractualism, the construction of individual–state relations involves two processes: the establishment of an emergent order based on organic signals and norms of social transactions, and the state’s codification and institutionalization of this emergent order through social consent. An emergent order refers to the outcome of iterative actions of individuals seeking to fulfill their own subjective desires and needs (Hayek 1976, 2011; Mises 2007). Such interactions are not limited to economic exchanges but extend to cultural and social relationships. Indeed, in emergent orders, “the different members benefit from each other’s efforts not only in spite of but often even because of their several aims being different” (Hayek 1976, p. 110).

In this context, the state is ideationally constructed through a multitude of relationships characterized by subjective rationalities and mutual benefits. Even in the absence of a state, individuals and societies naturally transact to fulfill their own cultural, social, or economic needs and desires. So, then, the first ideational gap in state-building in the developing world is the absence or deliberate destruction of these emergent orders. In many senses, pre-colonial societies exhibited more contractualism through emergent orders than the modern post-colonial states of today.

Although modern development practices are culpable for destroying emergent orders, much of this destruction happened through the course of colonial conquest. In pre-colonial societies, transaction norms were enforced by holding an entire community responsible for the actions of individual members; this created a self-reinforcing institution in which the threat of punishment served as a deterrent to potential violators of community norms and values (Greif 2002). Similarly, pre-colonial societies relied on norms such as gift-giving and deference to elders to help mitigate heterogeneity costs when engaging in long-distance trade (Leeson 2005). These norms and signals constituted an emergent order whereby diverse groups of people voluntarily engaged in transactions; since this order existed in a pre-state context, the emergent order was largely ideational.

This notion of an emergent order is most consistent with how the LLE program conceptualized economic governance in the absence of a functional state.

Under blockchain contractualism, which affirms the role of the state, the institutionalization of these social norms would be one way to add a transactional element in the process of state-building. However, the colonial enterprise built top-down-oriented institutions that interrupted the informal transaction marketplace in much of the developing world (Leeson 2005). At worst, colonial governance also manipulated certain signals and symbols in order to control social preferences and create confusion or mistrust (Posner 1998). Indeed, both colonial and post-colonial institutions largely ignored informal institutions; when they did interfere, they did so to bolster government power. So then, the first condition for the ideational construction of the state was never met—emergent orders were discouraged or dismantled.

The second condition, that is, the codification and institutionalization of emergent orders, continues to be undermined in the top-down approach to modern development practice, in contrast to the successful development trajectories of peaceful, prosperous nations. Indeed, the history of legal development in countries like the United States is one of codifying “preexisting informal common law arrangements” (Boettke et al. 2008, p. 341). For instance, land tenure legislation such as the 1862 Homestead Act codified existing social contracts by legalizing the outcomes of informal property transactions in the American West (de Soto 2000).

The type of state that emerges from these types of organic interactions is much different from the developing nation’s attempt to legislate and fund the state into existence at the expense of local, context-specific knowledge and agreement (Boettke et al. 2008; Scott 1998, 2017). For instance, for years, development practitioners in Sudan have tried to ‘introduce’ professional legal institutions to stabilize the state, operating on the flawed assumption that the country had no existing informal legal mechanisms that could be integrated into the formal structures (Massoud 2014). Similarly, top-down, externally designed economic institutions in developing countries often overlook vast segments of poor populations engaging in informal transactions or developing property with no formal titles (de Soto 2000). Institutions that contradict or ignore pre-existing social norms and codes are unlikely to contribute to the ideational component of the state-building project.

What follows from this analysis is that in contractualist systems, institutions do not need to follow any standard or blueprint from modern development practice; they are rooted in local norms and as such, not every state is going to look the same. In the institutional design phase, what is most important is establishing basic rules of social cooperation and limitations on the power of any majority, ideally through (near) unanimous consent (Buchanan and Tullock 2004). These foundational institutions, constitutions in a broader sense, protect the institutional boundaries of the market itself, that is, the rules of the game (Kirzner 2018).

The consensus criterion for forming these constitutional arrangements makes it more difficult for state elites or government agents to manipulate or repurpose institutions toward more private or factional ends. In this vein, economic and political processes function as parallel systems of exchange governed by foundational contracts (Buchanan 2000). If the market is a complex network of voluntary exchanges and agreements shaped by individual choices, contractualist institutions would prioritize mechanisms for recording, transmitting, and communicating these choices. Again, this is in line with replacing the coercive orientations of political institutions in the post-colonial world with a more productive element that legitimizes their importance for social functioning.

With blockchain contractualism as the pillar of techno-political integration, emerging technology provides mechanisms for reorienting the path-dependent institutional status quo in post-colonial states toward contractualism. As I stated in previous sections, the framework applies to development technologies beyond just blockchain; however, blockchain provides an elegant heuristic for thinking through how technology can help orient institutions toward contractualism, and, by extension, allow for broader structural transformation. Accordingly, I will end this section with a brief discussion of blockchain technology and its more immediate applications.

Blockchain is a digital, decentralized, data ledger network, where every modification of data is recorded and agreed to by participants of the network (Pisa and Juden 2017). Each new piece of data in the blockchain is encrypted and encoded through a unique digital identifier known as a hash. Often referred to as a ‘trust protocol,’ the technology is encrypted, accessible, and meticulous in data auditing (Hernandez 2017). Blockchain promotes the “rights of all individuals to establish their own identities and to capture and control their own data” (Tapscott and Tapscott 2016, p. xiv). It can also use customized smart contracts to grant variable access permissions or to execute tasks according to a predetermined set of rules (Pisa and Juden 2017).

Thus far, cryptocurrency has emerged as the only operational function of blockchain technology, owing to its freedom from government interference and immense entrepreneurial potential (Alston et al. 2022). However, cryptocurrency will likely never replace money. Unless the potential functionalities of blockchain technology are developed further to provide an infrastructure and platform for cryptocurrency, it is likely that cryptocurrency will remain a risky and volatile means of investment. For instance, one important application that can provide a functional platform for cryptocurrency is a blockchain that is used for storing and trading assets. This potential utility as an ‘internet of value’ is what distinguishes blockchain most clearly from digital technologies like the internet, which can only move information (Tapscott and Tapscott 2016). It is this broader implication of the technology that is most relevant to

the framework of blockchain contractualism. This praxis component will be discussed in the final section below.

4. BLOCKCHAIN CONTRACTUALISM AS DEVELOPMENT PRAXIS

Blockchain contractualism uses the idea behind the technology as a policy-relevant praxis for promoting individual autonomy, economic agency, and institutional legitimacy in diverse post-colonial contexts. To recall, contractualism denotes a system wherein emergent institutions codify the outcomes of freely conducted social, economic, and political transactions among citizens. This system requires two conditions. First, individuals need the autonomous agency to engage in political, economic, and social transactions with one another, resulting in the springing of emergent orders, many of which may be in the informal economic sphere. Second, the state constitutes itself in legitimate terms by codifying and institutionalizing the basis of these emergent orders, creating particularized relations with individual members of society in this process. Blockchain can help us think through how technology can aid in both processes.

Central to the utility of blockchain contractualism as development praxis is its ability to augment autonomous agency and facilitate seamless transactions in a variety of political and economic sectors. As an internet of value, the applications of what is sometimes called ‘Blockchain 3.0’ can compensate for the absence of effective formal institutions in the developing world (Swan 2015; Kshetri and Voas 2018). For instance, blockchain systems can be implemented to allow policy preference signaling among individual citizens; indeed, beyond enhancing state–societal links in post-colonial contexts, such e-governance applications of blockchain can help governments save billions of dollars in transaction costs (Swan 2015; Zambrano 2017; Pandey 2018).

In economic terms, blockchain’s utility as a trust protocol implies a drastic reduction in transaction costs and an increase in transaction capacity. Each blockchain user has a unique digital identifier, allowing for easy verification. This opens up a wide variety of economic sectors where blockchain technology can empower citizens with greater control over their own information and greater agency over economic decisions that affect their lives. One application that is easily implemented is blockchain for foreign aid disbursements, either as cash-based transfers or as vouchers for specific development projects (Pisa and Juden 2017; Hernandez 2017). Such applications garner approval from even the most ardent critics of market-oriented liberalism (see Ferguson 2010). Other small-scale economic applications of blockchain include personalized healthcare, microfinance, and remittances (Swan 2015; Hernandez 2017).

As development technology, blockchain can also facilitate ‘predistribution’ rather than redistribution of wealth, allowing small-scale economic actors to capitalize on resources they may already possess to participate in a broader economy (Tapscott and Tapscott 2016). This includes enhancing property rights protections, allowing micro-transactions, and granting variable intellectual property or royalty rights to group stakeholders (Nguyen 2016; Tapscott and Tapscott 2016; Zambrano 2017). Such applications dramatically democratize access to capital, for instance, by making it possible to invest pennies in lucrative stocks or procure crowdfunding for micro-projects. They also protect cultural capital in the developing world and also minimize financial and spatial barriers to entry for cultural entrepreneurs. Participating as users in these blockchains allows individuals to think of themselves as being in transaction with the state as well as with fellow members of society, creating new ideational and transactional foundations of state construction.

The most prevalent experimentations with blockchain as an internet of value have been in addressing the issue of ‘dead capital,’ that is, the exclusion of a significant portion of the global poor from the formal economy due to institutional disregard for social contracts (de Soto 2000). Blockchain technology can affirm and codify these social contracts, providing marginalized communities with greater agency in transactions and enhanced economic capacity (Pandey 2018; de Soto 2000). In this regard, blockchain could potentially convert up to 70 percent of non-registered land in developing countries from ‘dead capital’ into property that can be collateralized, exchanged, and taxed (Keilitz and Wiipongwii 2017, pp. 55, 70). It can also prevent unscrupulous transactions in property deeds and provide landowners with a greater sense of security and agency over their property (Zambrano 2017; Pandey 2018).

Several proof-of-concept projects have experimented with using blockchain systems as property ledgers. In Georgia, a company called Bitfury partnered with the government to commission a custom, permissioned blockchain platform, allowing verified citizens to register and trade their property ownership deeds (Kundu 2019; Keilitz and Wiipongwii 2017). Bitfury successfully registered 100,000 land titles in its pilot project, prompting the Georgian government to roll out the technology to other departments and inviting interest from other countries (Pisa and Juden 2017, p. 29). This system not only empowers individuals to engage in micro-transactions such as collateral-based loans and partial property sales but also provides the state with a reliable and efficient mechanism for acknowledging property rights.

In this sense, blockchain technology can be instrumental in the state’s role in codifying emergent economic and social transactions. By maintaining cost-effectiveness, transparency, and flexibility, blockchain contractualism provides the ideational-discursive tools by which individuals in developing societies gradually think of themselves as transacting agents. By providing a

transparent and secure platform for recording transactions, blockchain can aid the state in understanding and legitimizing informal economic activities. This can lead to more nuanced and effective governance strategies that recognize and incorporate the diverse economic realities of its citizens.

Still, this specific technology presents numerous challenges. One of the main challenges is that the emphasis on cryptocurrency applications means that the regulatory frameworks to deploy blockchain as a development technology do not yet exist. The second challenge is the challenge of scalability, or moving from a blockchain with specific applications to a country-based blockchain. The ways in which these challenges can be addressed and mitigated will be discussed through reference to another development technology that can be considered through the blockchain contractualism framework, ICT. Here, blockchain contractualism serves as a lens for more broadly analyzing techno-political integration, that is, the processes by which politics mediates how developing countries adopt and utilize emerging technologies to aid in the state-building process.

The influence of technological changes on political systems can be profound; to be sure, even the processes of state construction and state–society contractarian bargains explored in the previous section unfolded during the rapid technological advancements of the industrialization era (see North 1982). In contemporary development experiences, the advent of ICT has significantly impacted how societies interact and govern. In the context of globalization, where networks become the new predominant form of organization, ICT has shaped new forms of political movement and identity (Castells 2009). Furthermore, the rise of the internet and mobile technology has strengthened civil society and democratic governance in some development contexts, but it has also exacerbated inequalities due to issues of access (Norris 2001). In this sense, there is a continued feedback loop between development policy, technology adoption, and political reaction. Indeed, as Fukuyama (2012) notes, emerging technology, depending on the underlying political institutions, has the potential to strengthen or, alternatively, destabilize governments.

Kenya is an interesting case study of both the promises and perils of techno-political integration. On the one hand, the rapid proliferation of mobile banking technology in Kenya was not accompanied by sufficient training in financial literacy, at least initially. On the other hand, transparency, accessibility, price competitiveness, and, most importantly, adaptation to local needs have made Safaricom-owned mobile banking operator M-PESA the most successful development technology enterprise in Africa (Mahoney 2017b). At inception, M-PESA was formed to provide banking access and microfinance to the unbanked; today Safaricom has acquired large amounts of foreign investment and continues to spread its reach beyond Kenya, investing in both digital banking and connectivity.

It is important to think through how paradigm-changing M-PESA was for contractualism in Kenya. M-PESA requires, primarily, ownership of mobile phones. At the time that M-PESA was introduced in Kenya in 2007, the landline ownership rate was at 1 percent and the mobile phone subscription rate was at 20 percent (Waema 2007; Statista 2023). From 2007 to 2013, mobile phone penetration grew to 71 percent, while landline ownership rates remained stagnant at 3 percent (Pew Research Center 2015; Statista 2023). Today, nearly every Kenyan individual, including those among remote pastoral tribes such as the Maasai, owns a cell phone. In simple terms, as a result of M-PESA, Kenya skipped the landline phase of techno-political integration and leapfrogged straight into the digital age. In this sense, it was able to address concerns about digital divides by ensuring that everyone had access to M-PESA; the implication here was that every citizen would also need access to mobile phones. The digital and financial literacy divides would be addressed in tandem.

In line with blockchain contractualism, M-PESA also illustrates that the answer to the regulatory and scalability challenges is through fostering public-private partnerships. In this case, the Kenyan government created an entirely new regulatory environment, “facilitating the development of technological innovations designed to foster financial inclusion” (Rouse et al. 2023, p. 110). Again, the state has a definitive role to play, not in controlling the pace and adoption of new technology, but in creating the institutional infrastructure for companies that are already specialized in it. The state assumes this enormous risk willingly because, under blockchain contractualism, it is a state-building priority (and indeed, a necessity) to proliferate new technologies that legitimize the role of state institutions and promote autonomous identities.

In this sense, M-PESA can be thought of as the first case study in blockchain contractualism. The key here is to think through how M-PESA and other emerging technologies can be utilized in ways that fulfill the promises of blockchain technology in affirming individual autonomy, decentralized contracts, and spontaneous emergent institutions. In this vein, beyond the use of M-PESA for simple banking services, it is important to visualize the processes by which it is introduced and proliferated. First, disparate societies in Kenya would have to learn about the concept and use of mobile technology; thus, there is an element of technology education. Then, individuals would have to understand the concept of banking, meaning education in financial literacy. Finally, individuals would be introduced to the concept of using technology for financial transactions, thus adopting more autonomous agency as transactors in a more contractualist system.

While this process seems simple enough to imagine in urban contexts, the idea that these three layers of education were all transmitted through one technology, to the far reaches of Kenya’s agrarian population seems, at first, mind-boggling. This, in essence, is blockchain contractualism. Through the process

of techno-politic integration, a new emerging technology is used to transmit different layers of education on technology and finance in ways that bolster the autonomy, economic agency, and transactional capability of individual citizens. Today, Kenyans may still be Kikuyu, Luo, Somali, or Maasai in ethnic or tribal identity; they may be highly educated or not in the formal sense, and they may vary in their levels of wealth. At a primary level, however, all Kenyans can identify as mobile owners and mobile financial transactors; it is this agency that makes a world of difference in reconstituting relations among individuals as well as that between society and the state.

This is not to say that Kenya, as a state, undergoes a sudden, quick, or automatic transition to contractualism; however, ICT in this case provides one avenue for institutionalizing emergent orders. Indeed, one of the most unexpected outcomes of the rapid spread of M-PESA was that most Kenyans used it for the purpose that they most needed, mobile money transfers, rather than for the purpose that the planners primarily intended, microfinance (Mahoney 2017a, 2017b). This is a prime example of emergent orders under contractualist systems—those that emerge out of needs-based societal transactions rather than the calculations of central planners.

Still, as noted briefly above, the expansion of mobile banking in Kenya initially resulted in negative social outcomes such as gambling addiction and debt traps due to lack of sufficient simultaneous training in financial literacy (Mahoney 2017b). Although these issues were later somewhat mitigated, they are useful for framing the social challenges of techno-politic integration under blockchain contractualism. The main social challenge in this regard is new individual risk; tech-driven development projects often transfer risk from administrative bodies to the individual (Mahoney 2017a).

This is in line with the framework; as individuals gain more autonomous agency, they also assume new responsibilities and risks associated with this agency. Therefore, successful techno-political integration also depends on the individual's ability to leverage social networks to mitigate new individual risks and carefully balance the spheres of formal and informal economic activity (Mahoney 2017a). Technology-aided rural agriculture development ventures, for instance, primarily reward economic actors who have identified a clear path for risk mitigation (Heales 2017). Similarly, carefully navigating the boundaries of the formal and informal economic spheres is important because ICT seems to reward extralegal economic activity in the early stages of the business cycle, whereas many extralegal ventures eventually find greater prospective rewards and security in full legalization (Mahoney 2017a, pp. 102–116).

Again, all this serves to reassert the validity of blockchain contractualism as a praxis-oriented framework for enhancing techno-political integration. First, blockchain contractualism signposts how emerging technologies can facilitate stronger social networks for mitigating individual risk by enabling secure,

easily accessible, and transparent peer-to-peer interactions. In rural agricultural ventures, for instance, farmers can leverage blockchain-based networks to share information, access markets, and manage supplies more effectively, thereby reducing individual risks associated with market volatility and supply chain disruptions.

Second, blockchain contractualism provides a pathway for the legalization and formalization of extralegal ventures. By offering a secure and transparent record-keeping system, the state enables informal enterprises to establish a verifiable transaction history, which is often a prerequisite for entering the formal economy. This transition can lead to greater stability and access to resources, while also mitigating the risks associated with operating outside the legal framework. The accessibility of the network also offers quick pathways to formalization; thus, individual agents are better equipped to determine the appropriate pace and timing of the transition from the informal to the formal economic spheres.

It is fitting to end this section by going back to the rationale for this inquiry, the challenge of reorienting the state-building process around sovereignty and reason-based relational governance. Blockchain contractualism aids in this process in a myriad of ways. It empowers individuals with the autonomy to engage in economic, social, and political transactions with the state purposing itself as a facilitator. This challenges traditional top-down state formation processes, promoting instead a bottom-up emergence of governance structures. This emergent order, reflecting societal norms and values, evolves organically from individual–state relationships. It becomes the foundation of a new social order, aligning with the non-coercive, self-regulating principles envisioned in the contractualist state. In such states, societal norms and economic behaviors dynamically evolve through individual interactions within their unique cultural contexts, leading to flexible, adaptable governance systems that resonate with society's needs and values.

Further, blockchain contractualism approximates, to the extent that any modern society can, the liberal preferences for pre-constitutional unanimity and a state that strengthens institutions that come about organically through the efforts of individuals and societies to achieve their aims (Buchanan and Tullock 2004; Menger 2009). For instance, cryptocurrency blockchain networks may be conceptualized as a constitutional political economy of sorts; near-unanimity can be achieved either by integrating backward compatibility to any protocol changes or by allowing dissenting users and miners to branch off into adjacent networks with existing protocols (Alston et al. 2022). The principle of voluntary assent to blockchain is highly policy-relevant in this regard. The key challenge here is determining a feasible means by which user preferences can be recorded and translated into blockchain code. As new networks or technologies are integrated into a system that has adopted blockchain

contractualism, individual users are also given opportunities to learn and interact with these additions.

It is important to acknowledge here that the adoption of blockchain and similar large-scale technologies as a development strategy has not gone without criticism. The two fundamental challenges in this regard are the need for initial third-party maintenance of a blockchain server and the difficulty of scaling complex blocks or smart-contracts (Pisa 2018, pp. 81–82). Several strategies may contribute to stabilizing techno-political integration through blockchain contractualism. First, to mitigate the challenge of initial set-up, proxy access can be given to intermediary organizations like cooperatives or international organizations. This solution is only temporary, however, as the point of leap-frogging technology development cycles is to exponentially and simultaneously increase technology and financial literacy among marginalized populations.

Second, the development of mobile-based solutions offers a widespread, user-friendly gateway for farmers and shop owners to interface with blockchain technology, particularly in countries such as Kenya where mobile banking technology is already widespread. Indeed, integrating blockchain functionality with existing platforms familiar to farmers and shop owners, such as agricultural marketplaces or mobile banking systems, facilitates a smoother transition to new technologies. Third, incorporating trusted third-party verification, where local authorities or community leaders validate blockchain data, enhances trust and legitimacy in the system, further bridging the formal–informal divide. The key is to implement these strategies in ways that make sense within specific cultural and local contexts.

By focusing on such locally responsive implementation strategies, emerging technologies such as blockchain remain adaptive to diverse local contexts, catering to the specific needs and capabilities of targeted populations. Again, these functions can be implemented with any alternative technology that allows for decentralized ledgers, for instance, by pairing advanced encrypted cloud systems with unique digital identifiers for users. The key is not necessarily to go ‘all in’ on blockchain technology itself, but to adopt blockchain contractualism as a praxis to aid the process of techno-politic integration.

The final limitation of blockchain contractualism is the danger of governments appropriating emerging technologies such as ICT, blockchain, and AI as instruments of surveillance rather than bottom-up state reconfiguration. This, I concede, is the most important vulnerability for policymakers to address in the introduction of any new technology, but it is not necessarily new. New technologies have always had the potential to be used for purely market-oriented purposes, for repression purposes, or for democratizing purposes (Barber 1998). Thus far, blockchain has been used mostly for finance-oriented market purposes, and ICT has, in some instances, increased surveillance capabilities.

Still, refocusing on ethical service delivery as a component of governance and allowing multiple stakeholders' voices in the process of scaling and developing new technologies may help maximize the possibility that they are directed toward blockchain contractualism. A paradigm shift in development policy, where *modus vivendi* and blockchain contractualism are prioritized as state-building prerogatives, may also help to shift government incentives more toward capitalizing on the most societally productive aspects of technology.

5. CONCLUSIONS

In this chapter, I have highlighted the transactional and ideational gaps of state-building that distinguish post-colonial states from the states that emerged in early modern Europe. I examined the limitations of classical contractarian theory in reconfiguring post-colonial states and made the case for a contractualist approach oriented toward a *modus vivendi*. I then developed the framework of blockchain contractualism as a praxis for how emerging technologies can help anchor emerging institutions through spontaneous and bottom-up interactions. The state's role in developing and implementing these technologies provides a transactional and ideational basis for legitimating its *raison d'être* in the eyes of the citizenry. In a word, blockchain contractualism is a praxis, a map-making tool for post-colonial states that responds to the calls of the *modus vivendi* liberals, and attempts to incorporate emerging technology into state-building.

As blockchain contractualism can guide the techno-political integration process for any emerging development technology, the advent of even more advanced technologies like AI further elevates the urgency of a paradigm shift in development policy. When integrated through the blockchain contractualism policy framework, AI can enhance digital and financial literacy, create more autonomous economic identities, craft new contours of individual-state relations, and even provide new individual pathways for prosperity. With any new technology, the goal is to enable an emergent system in which all stakeholders have a vested interest in a unified polity.

In a contractualist polity, the new territorial nation does not rely on historical and cultural conceptions of identity; instead, it is constructed for the sustenance of the emergent state and its underlying social contract, which must thereby become non-negotiable. As social relations constitute markets, contractualist transactions constitute the state. This is encapsulated by Hayek's (2007) exposition that "when individuals combine in a joint effort to realize ends they have in common, the organizations, like the state, that they form for this purpose are given their own system of ends and their own means" (p. 103). Thus, contractualism becomes the basis by which the state-building process is reinvigorated, a process that can potentially be greatly accelerated by

technologies like blockchain, and one in which the outcome is a post-colonial state with a self-validating form of sovereignty.

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6. Liberal democracy, non-Western governance, and the Bloomington School

Bryan Cheang

1. INTRODUCTION

Through the contributions of Elinor and Vincent Ostrom, the Bloomington School of Political Economy developed important analyses of institutional diversity and, closely related, a normative ideal of self-governance. Scholars in this tradition find that individuals, through their mutual interactions, have a capacity to solve collective action problems in ways that go beyond traditional dichotomies of state control and market exchange. There is a multiplicity of rules, governance systems, and organizational techniques that human communities can craft to solve a variety of governance dilemmas. Analysts working in this tradition stress both the empirical fact of and desirability of “polycentrism,” which rejects a “one-size-fits-all” approach to problem-solving.

Crucially, the work on institutional diversity in real-world governance is also intimately connected with a deeper *normative ideal of self-governance* inspired by the American experiment of federalism. The federal system of the United States precisely exhibits features of polycentrism, since there are multiple decision-centers (states, counties, metropolitan areas, towns, cities, etc.) with independent authority from each other, and which interact with other locales across numerous levels in complex ways, under the common authority of the Constitution. Aside from the formal structures of government, the Bloomington ideal of self-governance is also rooted in a Tocquevillian view of citizenship. Citizens play a central and active role in the co-production of public services, building social capital, and acting as a bulwark against state overreach.

An attractive value of polycentric governance lies in its emphasis on pluralism, as it caters to decentralized decision-making in relatively autonomous decision-centers. Pluralism promises to improve public policy by increasing information feedback, error correction, and learning. Institutional pluralism

is also valuable in a world marked by deep heterogeneity, polarization, and ideological disagreement. Certainly, in contemporary American society and many developed Western nations, the increasing cleavages formed around controversial issues make the question of “how to live together as one?” more pressing than ever.

However, no discussion of governing deep difference would be complete without also turning one’s attention to cultural differences across borders, and the varied political attitudes global citizens have about the nature of governance. The question to be posed here is whether polycentric governance would be attractive to citizens from non-Western societies who may have very different understandings of how government officials are to relate to citizens, and how disagreement is to be managed. Currently, approximately 88 percent of the world’s population lives outside of “the West,” in what is often called the “global South” (Mahbubani 2024). What can the theory of polycentric governance contribute to policy debates in non-Western societies?

Accordingly, this chapter will consider the merits of polycentric governance in relation to non-Western societies, using the example of East Asia, a region that has not only risen to global prominence, but also poses a direct challenge to the universal claims of liberal democracy. If the value of democracy is questioned, what would be the value, if any, of polycentric governance considering that it has often been understood from the lens of democratic choice? In fact, much of the normative literature on polycentrism revolves around democratic states (see Müller 2019; Aligica et al. 2019). American federalism specifically exerted a deep influence on the literature on polycentric governance (see Ostrom 1987; McGinnis 1999).

I will show that the underlying American-centric, individualist view of state–society relations runs counter to East Asian political culture, which is much more wedded to a Confucian view that prizes virtuous rule, hierarchical, and communitarian decision-making. The liberal approach sees a clear demarcation between state–society relations in which government officials are mainly representative agents of the people, while the latter views state–society relations through a familial lens, in which state officials are akin to heads of families making decisions on behalf of the common good. Such a gap in political culture might mean that the normative individualism that is at the heart of polycentric governance is resisted on moral grounds.

Nonetheless, I also show that polycentric governance is still valuable as a method of institutional analysis, and a pragmatic instrument to improve social trust and defuse social tensions in East Asia (or other non-Western societies), even if liberal social values might not be fully subscribed to. Citizens in non-Western societies may not fully embrace polycentric governance for moral reasons, but they have good prudential reasons to do so nonetheless. Even though the theory of polycentric governance may be borne out of a particular

historical experience of Western democracy, it still has practical lessons to teach in non-democracies.

Ultimately, the value of polycentric governance to a non-Western audience may depend on whether one focuses on it being simply a method of institutional analysis or rather as a substantive, normative ideal of democratic self-governance. *Simply as a method of institutional analysis*, Bloomington institutionalism is widely applicable, and in fact, the fieldwork of Elinor Ostrom herself explored common pool resource management with an extensive range of global case studies (Ostrom 1990). But if one focuses on the *normative ideal of democratic self-governance* associated with the Bloomington outlook, the notion of polycentrism may seem like a disguised cover of American liberal democracy. Whether Bloomington institutional analysis may be cleanly separated from the normative political theory is complex and cannot be answered here in this chapter, but is worth reflecting upon given the fact of cultural diversity in the world today, and where the value of democracy cannot be simply assumed.

2. NON-WESTERN GOVERNANCE AND EAST ASIA

Most scholars today generally agree that the past few decades have not witnessed a convergence to liberal democracy as a universal form of government. This is despite the optimism held by liberals since the end of the Cold War, that social intercourse, economic development, and modernization would bring about a gradual acceptance of liberal rights around the world. While there may be many reasons for this lack of convergence, a critical determinant is the persistent cultural differences and thus differing attitudes about the role of government in society. Modern institutions and practices revolving around the rule of law, individual rights, and impersonal markets are very much rooted in the cultural history of WEIRD (Western, Educated, Industrialized, Rich, and Democratic) societies, in the language of Joseph Henrich (2020). Recent world values surveys also show that Western values are steadily diverging from the rest of the world (The Economist 2023).

Samuel Huntington, speaking at the turn of the 21st century, identified the Sinic and Islamic civilizations as the greatest civilizational challenges vis-à-vis the West. This was largely because both Confucianism and Islam are “consummatory systems,” characterized by a “close relationship between intermediate and ultimate ends [...] society, the state, authority, and the like are all part of an elaborately sustained, high-solidarity system in which religion as a cognitive guide is pervasive” (1996, p. 96). These two cultures tended not to have a separation of spiritual and temporal authority: “In Islam, God is Caesar; in China and Japan, Caesar is God” (Huntington 1996, p. 87), while God and Caesar are separate in the Western tradition, giving rise to the practice of separation of powers and liberal secularism.

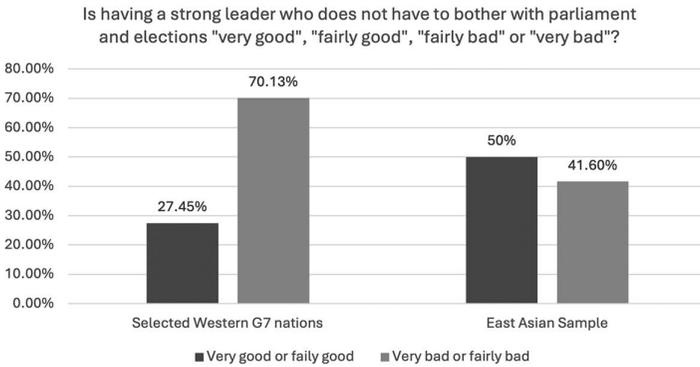
The challenge of Confucianism, represented by the rise of East Asian countries, is particularly salient given their economic development has translated into global assertiveness, which has allowed them to resist Western demands. Today, 1.7 billion people live in this civilizational group, totaling about 20 percent of the world's population. To the extent that they can reshape global politics and even indirectly as migrants to Western nations, the political values of this group warrant examination. These individuals largely subscribe to Confucian political values, which diverge from liberalism in generally three ways (see Wong 2024 for a detailed analysis). First, Confucians typically take a perfectionist stance to political ethics, believing in a specific vision of the good life, which differs from the neutral stance in Western liberalism (the “perfectionist” challenge). Second, Confucians place a high value on social harmony, said to be opposed to individual rights (the “communitarian” challenge). Third, Confucians value virtuous and capable leaders, as opposed to democratically elected rulers (the “meritocracy” challenge).

Confucian political order does not totally do away with democratic institutions but mixes them in varying degrees with meritocratic norms. Take, for example, the theorist Jiang Qing, who is considered the most radical political meritocrat. He advocates for the “Way of Humane Authority”, in which there are three legislative branches grounded on different sources of legitimacy: sacred legitimacy, popular legitimacy, and cultural legitimacy (Jiang 2013). In one of the houses, members are elected by universal suffrage just as in typical democracies, but this is balanced by two other houses where members are chosen by a mix of recommendations by eminent persons and family lineage. Some Confucian theorists also claim that democratic processes are pragmatically valuable for Confucianism (and vice versa), since it provides a forum for people to relate ethically to one another (Tan 2003). Yet, the incorporation of democratic processes here tends to be subsumed within a *perfectionist political order where one view of the good life is elevated*. Confucian democracy is not liberal democracy, where the state remains neutral toward all conceptions of the good.

Recently, Confucian political theorists have considered the challenge posed by pluralism and diversity, and the viability of maintaining a specific ethical ideal at the core of the state. The leading theorist in this regard is Kim Sungmoon (2015), who advocates a “public reason Confucianism” that puts Confucian values in dialogue with rival values. Here, Confucian values must be publicly justified to fellow citizens rather than simply imposed, facilitating mutual accommodation among various citizens in a Confucian society. Some scholars, however, think such an approach is unsatisfactory and revert to a position of liberal democracy, where a single ethical ideal is wholly rejected in favor of neutrality (Li 2019). At the heart of this dispute are the implications of taking pluralism seriously.

While there is much diversity within Confucian thought and between Confucian societies, there is generally a resistance against the norms and practices of liberal democracy. The term “liberal democracy,” as I will elucidate, is complex and can include many practices, values, and institutions. However, the *sine qua non* that distinguishes a democracy from a non-democracy is the existence of competitive elections from which elected representatives derive their legitimacy. This basic institution of a democracy is criticized by the tradition of political meritocracy for being unconnected to virtue and capability. This denigration of competitive elections means that East Asian citizens tend to have more authoritarian values than people elsewhere, as seen in Figure 6.1. Citizens of East Asia are almost twice as likely to believe that “having a strong leader who does not have to bother with parliament and elections” is fairly or very good. This may be surprising to some because the results include Japan and Korea, which are considered advanced democracies. What the results suggest is that despite the formal institutions of democracy in these East Asian nations, they nonetheless lack a robust *democratic ethos*.

It is important to note, however, that the denigration of competitive elections is not to be conflated with mere authoritarianism, but rather, a preference for political meritocracy (Wong 2013; Bell 2016). Here, it is believed that by



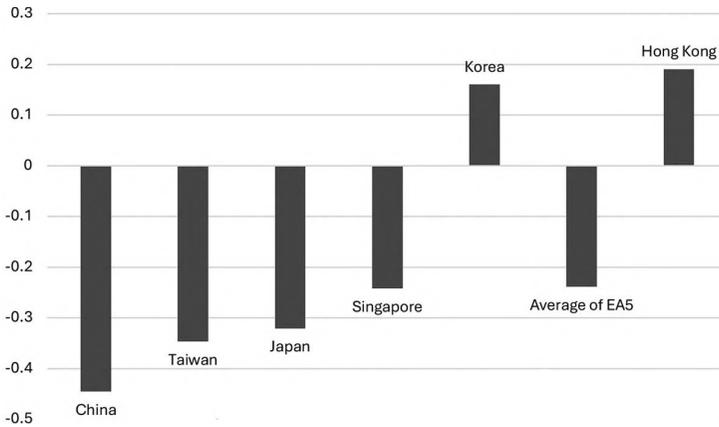
Source: Author’s calculations from World Values Survey Wave 7 (2024).

Note: G7 nations are selected as representatives of the developed democratic nations in the world. The G7 sample includes the United States of America, the United Kingdom, Canada, and Germany only, since France’s and Italy’s data are not available in WVS Wave 7 and Japan, being an East Asian nation, is removed from the calculation. The East Asian sample includes Japan, Singapore, Taiwan, and South Korea.

Figure 6.1 Survey results comparing responses to WVS Question 235 on the desirability of a strong authoritarian leader

overcoming the vicissitudes of democracy, meritocratically recruited leaders may be able to do what is best for society, rather than simply what voters want (Figure 6.2). Rulers are expected to act on behalf of the common good, even when the electorate may not always express the public interest at the ballot box.

The notion of rulers acting on behalf of the common good, even in the absence of competitive elections, may be odd to Western sensibilities, which emphasize the risks of the abuse of power and related public choice problems. In the Confucian world view, this problem is (though not totally) alleviated by the existence of a communitarian social ethos, where both state and social actors willingly compromise and act on behalf of the greater good. Moral self-restraint exercises as strong a check on errant behavior as external constitutional mechanisms that separate and limit power. Thus, the achievement of social harmony is given greater weight than the protection of individual rights,



Source: Author's calculations from Asian Barometer Survey Wave 5 (2024).

Notes: Positive coefficient represents agreement with the first statement, and negative coefficient represents agreement with the second. Respondents are given two options for both statements: "strongly agree" and "somewhat agree." Strong agreement with the democratic statement is coded as a value of 2, mild agreement with the democratic statement is coded as a value of 1; strong agreement with the paternalistic statement is coded as a value of -2, and mild agreement with the paternalistic statement is coded as a value of -1. The total values of all respondents in that country are added and divided by the number of responses for each country to generate the country coefficient.

Figure 6.2 Which do you agree is the proper role of government: "Government leaders implement what voters want" or "Government leaders do what they think is best for the people"?

which if exercised vigorously could lead to excessive disagreement and undermine social order.

Importantly, this region of East Asia experienced rapid development in the latter decades of the 20th century, and did so through largely top-down approaches. With a combination of industrial policy, selective controls on trade, and heavy government investments in human capital, the authoritarian states in East Asia managed to achieve industrialization and a range of positive economic outcomes. Whether top-down mechanisms are *causally responsible* for the region's success as opposed to free-market policies is beside the point. The point rather is that this narrative of prosperity, having been attained by the region in a rather monocentric manner, is etched in much of the social science narrative and in the public consciousness (see Cheang 2024). Treating this social science literature seriously would warrant an analysis of governance that is sensitive to its cultural underpinnings – in this case, to examine whether polycentric governance may be disentangled from liberal democracy.

3. DISENTANGLING POLYCENTRIC GOVERNANCE AND LIBERAL DEMOCRACY

Is polycentric governance equivalent to liberal democracy as traditionally conceived, or does it in any way entail components of it? Can the literature on polycentric governance inform policy debates outside the community of liberal democracies in the world today? Might the potential of polycentric governance in managing deep differences in the world also apply to the social cleavages in the non-democratic world? Attempting to answer these difficult questions would warrant an unpacking of the meaning of “polycentric governance” and an examination of its relationship to “liberal democracy”, traditionally understood.

The definition of polycentric governance must first be explored. There are three necessary and sufficient conditions (see Aligica and Tarko 2012; Aligica 2014 for detailed analyses):

1. Multiplicity of decision centers which have meaningful autonomy to actively exercise different opinions.
2. Existence of an overarching system of shared rules shared by all sub-units.
3. Evolutionary competition between decision-centers, with freedom of entry and exit.

Whether polycentric governance is compatible with or assumes “democracy” depends on how the latter is defined. If one uses Joseph Schumpeter's (1942) minimalist understanding of democracy as nothing more than the use of

competitive elections to make public decisions, then clearly polycentrism need not be democratic. In a democracy, the collective choice mechanism in the “overarching system of shared rules” is that of majority elections. But there is no reason to suppose that this must be so. Citizens could utilize a *non-democratic conception of collective choice* and nonetheless maintain institutional competition between sub-units. In the East Asian case, one could imagine competing networks and communities of virtuous rulers and Confucian citizens living in a non-democratic political society, engaging in mutual learning and feedback.

The possibility that polycentrism can co-exist with a non-democratic system (which I treat here as synonymous with an autocratic system) makes the following typology interesting (Table 6.1). What the table shows is that democracy may or may not be polycentric (comparing cases 1 and 3). In fact, many democratic states today, despite the existence of electoral representation, engage in top-down regulations in the market and civil society which stifle individual liberty and competitive choice (case 3). It is in this context that F.A. Hayek’s (1979) criticisms of democracy understood as majoritarianism is instructive.

However, the typology here also offers the interesting possibility that an autocracy may be polycentric (comparing cases 2 and 4). In other words, the absence of democratic elections could logically co-exist with a high degree of polycentrism in society, where market actors and civil society organizations are given autonomous decision-making powers. The case of Hong Kong comes to mind, where even though they never enjoyed democratic elections, there was nonetheless a high degree of polycentric freedoms its citizens enjoyed, at least until the handover to China in 1997. Though this is fast being eroded today, Hong Kong has traditionally had a flourishing civil society, a genuinely laissez-faire market economy, and a citizenry that has never shied away from pressing its claims against government officials – despite not having been able to choose their colonial governors (Cheang 2022). A polycentric autocracy may be rare, since autocratic leaders tend to favor centralization of powers – but it is not logically impossible. Certain periods of China’s history in the post-Mao period, despite not enjoying democratic elections, enjoyed some semblance of

Table 6.1 Typology of political regimes according to their governance structure and political system

-	<i>Democracy</i>	<i>Autocracy</i>
<i>Polycentric</i>	Polycentric democracy (1)	Polycentric autocracy (2)
<i>Monocentric</i>	Monocentric democracy (3)	Monocentric autocracy (4)

devolution that aided in its pro-market economic reform efforts (Coase & Ning Wang, 2016).

The analysis gets more complicated when a more substantive understanding of democracy is used. An influential version is Robert Dahl's (1998) "polyarchy", which emphasizes not only the existence of competitive elections, but the equal right of political participation for all citizens (universal suffrage), and also protections of civil liberties. There are a total of six essential components which make up polyarchy (Dahl 1998, pp. 85–86):

1. Elected officials: control over government decisions is constitutionally vested in officials elected by citizens, which means that the government is representative.
2. Free, fair, and frequent elections: elected officials are chosen in frequent and fairly conducted elections in which coercion is comparatively uncommon.
3. Freedom of expression: citizens have the right to express themselves on political matters without facing the danger of severe punishment.
4. Alternative information: citizens have the right to seek alternative and independent sources of information, which are legally protected and not under political control.
5. Associational autonomy: citizens have the right to form relatively independent associations or organizations in order to exercise their rights.
6. Inclusive citizenship: no adult who permanently resides in the state and is subject to its laws can be denied the rights that are available to others and necessary to the other political institutions.

An analysis of polyarchy will reveal some interesting connections with polycentrism. Clearly, the absence of components 1 and 2 is not incompatible with polycentric governance. As explained above, the absence of elections and democratic representation would not be a problem if a non-democratic mechanism of collective choice already forms the basis of the overarching system of shared rules in a polycentric social order. However, the link between polycentric governance and Component 6 of "inclusive citizenship" is much more complicated since it would depend on what the "rights" that citizens are not to be deprived of are. If these rights are merely voting rights, then clearly a polycentric social order need not require the equal rights of all to participate in elections (universal suffrage).

The crucial anchor of both polycentrism and polyarchy would be *associational autonomy* (component 5), where citizens have the freedom to (dis)associate, and in so doing, modify the flavor of civil society through their voluntary interactions. In fact, one may argue that associational autonomy makes

meaningful the freedom of expression and the availability of alternative information (components 3 and 4). Citizens may not be physically able to express themselves and gain alternative information if they lack some protected sphere within which permissionless action is possible. Importantly, what this analysis also shows is that while *polycentrism does not require democratic elections, it does require some semblance of associational autonomy, without which there will not be a multiplicity of decision centers that compete amongst themselves*. In other words, the freedom to enter and exit from various civil associations seems fundamental to both polycentrism and polyarchy.

Consequently, the relationship between polycentrism and liberal democracy may be clarified. Polycentrism need not be democratic, in the sense of utilizing democratic elections as a collective choice mechanism, but it requires a minimal commitment to pluralistic decision-making. This commitment does not need to include an acceptance of a liberal way of life, the view that individuals have natural rights, or that social diversity is a good in itself. Rather, it is a more minimalistic forbearance from interfering with the actions of others, which we may label as liberal toleration or liberal pluralism (Kukathas 1997; Galston 2002). In short, polycentrism need not be democratic, but it is liberal in a weak sense of the term.

An exploration of such a non-democratic, but liberal, polycentric social order is especially relevant considering that historically, liberal societies have never been the norm, and today where its value is being contested. This relevance is both true analytically and normatively. Analytically, we may detect some degree of polycentrism even in historically totalitarian societies like North Korea and China, given the existence of black markets and a multiplicity of informal norms that govern relations that do not conform to the laws on the books (see Frost and Li 2023 for an example of China's underground markets). At the same time, China's relatively successful economic transition over the past few decades may be understood as an instance of having practiced polycentric, market-preserving federalism (Montinola et al. 1995). Analytically, polycentrism is everywhere.

Normatively, whether "liberal polycentrism" may be embraced in non-liberal societies is a separate question. This is certainly logically possible. Autocratic societies, at least in less severe cases, may accord associational autonomy (the key trait of polycentrism) to private communities, lower levels of political units, civil society actors, and para-political organizations. With reference to East Asia, though, there is no intrinsic reason why polycentrism is incompatible with Confucian commitments. In fact, the emphasis on moral learning and treating subjects and citizens with dignity and respect are certainly intellectual resources that can justify a polycentric Confucian society. Depending on the specific belief system being explored, it may be possible to

make a case for polycentrism and associational autonomy that could resonate with that society's cultural framework.

Logical possibility, however, does not entail sociological feasibility. There may be sociological resistance in certain cultures to polycentric governance, especially if the prevailing belief system and historical experience predispose them to hierarchical control. Various thinkers and historians have shown, ever since David Hume (1742), that the development of Western Europe, and its diversity and pluralism, was closely associated with its political fragmentation. Despite this fragmentation increasing the likelihood of wars and conflict, it acted as an impediment to conservative forces that might have otherwise hindered heterodox thinking and thus stifled the growth of knowledge (Mokyr 2017). By contrast, in China's political history, notwithstanding certain periods of openness and diversity, was largely characterized by hierarchical control under a unified state. The *historical consciousness of people* in China and related East Asian societies may thus *predispose them to top-down governance*, further evident in the survey results displayed in the previous section. In a similar spirit, Timur Kuran (2018, 2023) has shown that there are persistent institutional factors within Islam that have historically inhibited the growth of civil society in the Middle East. Whether the political cultures of the Middle East and various parts of Asia, which have historically had a fraught relationship with liberal democracy, may be reformed is the crucial question.

Closely related to the historical experience of respective societies is also a more fundamental philosophical issue of the nature of the individual self. The Confucian paradigm is one that posits a "relationally constituted" individual, one who is "embedded in and nurtured by unique, transactional patterns of relations, a conception of person that contrasts starkly with the more familiar model of discrete individuals defined by common traits that we have come to associate with liberal democracy" (Ames 2018, p. 20). Here, the individual is constituted by a variety of social roles he possesses, especially his familial relationships, and importantly the moral lessons that these roles provide in shaping one's conduct. This supposedly stands in contrast to the rational and autonomous individual that the Western tradition is said to be wedded to (see Rosemont 2015). Now, it should be acknowledged that the charge of atomism leveled against much of mainstream social science today sometimes stems from a misunderstanding of methodological individualism, and in fact, many thinkers in the Western liberal tradition did account for social situatedness (see Boettke 2023). Despite this, the way most Confucian thought actually developed is based on this sharp dichotomy. Moreover, individuals are expected to also cultivate virtues in alignment with the pre-eminent ideal of "ren" (understood as a certain view of "benevolence"), and in this sense, there is *one view of the good to be attained*, though this is not necessarily to be coercively legislated. The liberal idea that there is a broad range of goods to be freely chosen

by individuals is an anathema, so is the assumption of the primacy of the individual's values over the collective. To even posit a separation between both would be mistaken, since both exist in harmonious balance.

Polycentric governance assumes a degree of normative individualism, where "individuals are the ultimate sovereigns in matters of governance and social organization" (Aligica et al. 2019). Of course, this does not mean that in polycentric governance individuals do not have any social commitments or rich social ties. In fact, Tocquevillian democracy rests on the rich associational life of citizens, which makes democracy more than just a set of formal procedures and institutions. Yet, there remains a skepticism of centralized authority, where governments "exercise tutelage over societies and steer and direct those societies," thereby corrupting self-governance (Ostrom 1997). This demarcation between state and society is greatly minimized in the Confucian tradition, which sees central authority as *moral extensions of one's family*, rather than merely representative agents. The normative values behind polycentric governance might be in tension with the moral sensibilities of non-Western peoples who may simply not place the same value on individualism.

4. POLYCENTRISM AS A PRAGMATIC INSTRUMENT OF GOVERNANCE

Polycentric governance stresses the importance of associational autonomy, which makes possible a multiplicity of interacting decision-making centers under a system of shared rules. While it does not assume or require democratic elections in its decision-making processes, it may be difficult to view such governance in isolation from its commitment to normative individualism, which is rejected by certain philosophical traditions in the world. That said, there may still be non-moral prudential reasons as to why the theory of polycentric governance may add value to non-Western traditions. With reference to the example of Confucianism in East Asia, polycentric governance may speak to the emphasis on performance legitimacy, defuse social tensions in the midst of vehement disagreement, and improve social trust amongst citizens and officials.

In contrast to the West, where state officials primarily derive their legitimacy from democratic representation, the emphasis in East Asia is on *performance legitimacy*. Here, it is the successful delivery of effective public policy that ultimately accords the ruler legitimacy to govern. Over the past few decades, "effective public policy" in the East Asian context has been defined as mass economic growth and improved standards of living. The region, starting from the 1960s, adopted a "developmental state" approach to economic governance, where authoritarian rulers engaged in activist industrial policy to bring about industrialization and other economic outcomes (Cheang forthcoming). In this

approach, it is because civil servants and political leaders effectively deliver the economic goods that even the suspension of civil liberties may be justified, a tradeoff that citizens themselves accept. A lack of press freedoms does not bother the electorate as much as dilapidated public housing, infrequent public transport, and low-quality public goods. Citizens emphasize bread-and-butter issues rather than abstract political ideals like freedom, equality, and human rights. This has been called a “give me liberty or give me wealth” social ethos (Heng 1994; Cheang & Choy 2023; Cheang 2024).

Polycentric governance has much to offer in this regard, especially as a means to improve the delivery of public services. It argues that public services are best delivered not through a monolithic, one-size-fits-all approach, but through multiple scales that best cater to varied local needs. In this view, overlapping authorities by local jurisdictions are not necessarily inefficient, but could engender a level of learning, responsiveness, and flexibility that are otherwise not present in relatively centralised approaches. Polycentric governance is especially relevant when dealing with complex challenges which defy easy answers, such as climate change, which has been categorized as a “wicked problem” (Jordan et al. 2018). East Asia today grapples with unprecedented governance challenges including urban migration, climate change, and burdens on its welfare systems and public infrastructure. These challenges are of course not unique to this region, but affect various societies that have become more integrated into global society and thus confront the challenge of complexity. These societies may not imbibe individualism and democratic elections, but could improve their public administration through polycentric governance.

The example of climate governance in the context of authoritarian China is worth examining. Despite being traditionally recalcitrant when it comes to engaging in climate change mitigation, it has come to accept it as a domestic policy imperative. There is now a greater recognition that climate change policy may be harnessed to further economic growth sustainably and also to protect against the adverse risks from extreme weather events and other negative effects. Success in climate change policy is now implicated in the state’s desire to maintain performance legitimacy. Historically, environmental policy is state-directed, but there is now an increasing recognition in China that success on this front requires wider participation of the private sector and civil society (Liu et al. 2017; Westman and Castán Broto 2018). Environmental NGOs in China today play important functions in relation to the central government, such as the co-production of scientific knowledge, mobilizing public support and collaborating with local governments, though their roles remain restricted due to fear of a loss of central coordination (Li and Song 2015). In this landscape, Bloomington Institutionalism is especially valuable in mapping the networks of state and society partnerships in China’s climate ecosystem.

Insights from this literature could also provide assurance to policymakers that involving citizen participation need not necessarily mean a loss of coordination, but could improve the practical delivery of climate goals for its citizens, and thereby meet the government's national agenda.

Polycentric governance also aids in diffusing social tensions. One specific challenge that many societies face today is the governance of social differences, brought about and heightened by rapid immigration, cultural globalization, and cross-national media effects. Controversial issues in one part of the world could sow the seeds of discord far away. At the time of this writing, the Israel–Gaza conflict has seen vehement disagreement and even civil disorder on college campuses and public squares around the world. Public protests have spread as far as Korea and Japan, for instance (All Israel News Staff 2024; Middle East Monitor 2024). While Western societies place a higher premium on free expression, the Eastern tradition prizes social cohesion. This aim may be indirectly served through polycentric governance, due to its preference for “exit” rights over “voice,” in the language of Albert Hirschman. Rather than expecting convergence, agreement, or even overlapping consensus on controversial issues, separate communities may be able to realize their own values privately without outside permission (Cheang & Ho, 2026). By removing controversial topics out of the realm of collective choice, which typically results in a singular decision being implemented, the incentive for citizens to be locked in a zero-sum demonization of their fellows is reduced. The privatization of public spaces or services may well serve this goal. Of course, full privatization may not be desirable or feasible. The public sphere, to the extent that it remains, may nonetheless be fragmented into smaller or separate domains, reducing the chance for a single interest group to exercise full domination.¹

Closely related to the defusing of social tensions is the building of social trust, which is an aim of many non-Western societies that emphasize the value of cohesion. Social trust may be analyzed in terms of citizen-to-citizen relationships and citizen–government relationships, and both may be enhanced, as the Bloomington literature suggests, when citizens are given greater scope in co-producing public services. For example, in the study on metropolitan policing, it was found that decentralization helped build trust on the part of citizens and thereby improved relations (Ostrom 1978). Interactions with one's neighbors in policy delivery also build trust with others, as common aims are identified and compromise is encouraged. Over time, norms based on trust are strengthened, allowing individuals in a community to converge on acceptable behavior.

This would be of great value to non-Western societies, especially communitarian East Asia. In this region, unprecedented immigration, the embrace of Western values by the youth, and closer integration with the global community make challenging the government's aim to manage social diversity. In fact, the

increased pluralism in the region motivated recent rethinking in Confucian political theory to be more responsive to the fact that citizens may no longer hold traditional beliefs but must learn to accommodate differences (Kim 2012). The lesson that polycentric governance may offer here is that citizen coproduction in governance and allowing for multiplicity in decision-making can help facilitate social trust between diverse citizens as they live with others and solve common problems.

5. CONCLUSION

The aim of this chapter has been to reflect on the relationship of polycentric governance with the idea of liberal democracy, which, though related, are quite distinct. This is especially important when considering the value of polycentric governance in a world that may not necessarily agree with the norms and practices of liberal democracy. Though some resistance to liberal democracy in the non-West is nothing more than an excuse by authoritarian leaders to violate the dignity of their citizens, there are nevertheless genuine cases where it is deemed as incompatible with local political cultures. One such case is that of Confucianism in the context of East Asia, where there is a genuine preference for political meritocracy rather than democratically elected leaders, and where state–society relations are seen through a more communitarian lens.

An analysis of polycentric governance in this light is especially instructive. I have shown that polycentric governance, as compared to liberal democracy, may be more appealing to East Asian citizens because it does not require or assume democratic elections as a mode of collective choice and thus can accommodate meritocracy and other alternative modes of collective choice. However, polycentric governance requires a basic acceptance of associational autonomy, where individuals have a right to freely enter and exit diverse arrangements. There is also an underlying normative individualism that polycentric governance rests on, which may be resisted by societies that simply are not sociologically and historically predisposed to such a view. As such, using the example of East Asia again, its citizens may not have moral reasons to accept the theory of polycentric governance. That said, there may nonetheless be good, *prudential, non-moral reasons* to learn from it, given that institutional competition and decentralization can help improve policy delivery, defuse social tensions in a diverse world, and build social trust between citizens.

There is thus a need to conceptually distinguish Bloomington institutional analysis – which studies the capacity of individuals to innovate diverse rules to solve collective action problems – from the *normative ideal of democratic self-governance* that many of its scholars advocate. This chapter therefore provokes reflection on the question of whether one can engage in neutral institutional analysis without also assuming or advocating some normative ideal.

Separately, there will also be great value in future research which considers the concept of polycentrism more broadly in the field of comparative politics and in relation to regions of the world that do not share a similar historical experience of liberal tolerance and democratic self-governance.

NOTE

1. How this is to be operationalized is a complex logistical question that is context-dependent. On the other hand, polycentric protests may pose a real problem for authorities should they aim to maintain social cohesion. Already, many social movements and protests are “leaderless,” and often organize spontaneously. This hampers efforts by authorities to police them.

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7. The government of things: acknowledging non-human agents in institutional design

Alexandru Stefan Dincovici

1. INTRODUCTION

All social sciences, a category in which we can include not just sociology, anthropology, or psychology, but also political science and economics, are trying to capture different views of the world.¹ While doing so, however, social inquiry and its methods also become “productive: they (help to) make social realities and social worlds” (Law and Urry 2004, p. 390). Economics have, in this regard, been “more effective” (Law and Urry 2004, p. 391), as constructing the economic has been shown to also construct the social, and vice-versa (Callon 1998, 2007).

The discussion about the performativity of social sciences, and especially economics, drawing on Austin’s philosophy of language (Austin 1975), raises an important question concerning the theories involved in describing the world, and especially their intellectual premises. If the reality they are trying to describe is not just out there in the world but is coming into being through performativity, how might we alter those said premises in order to account for such entanglement and do justice from an ontological perspective? In other words, what more adequate conceptual tools might we use to escape the pitfalls of past approaches? If the calculative agencies presupposed by most economic theories are not a given but emerge in specific conditions (Callon 1998), how can we take into account a different starting point for scientific inquiry that might address different kinds of agency?

This chapter thus tries to tackle ways of governing deep divides by trying, first of all, to reconcile polycentric governance studies with a different kind of ontology than the exclusively human-centric one shared both by the Austrian and Bloomington schools of mainline economic thought (Boettke et al. 2015, p. 317), allowing non-human agency to step into institutional work. Second, through advancing the notion of a cognitive assemblage (Hayles 2017), it

aims to destabilize the methodologically individualist approach (Boettke et al. 2015, p. 317) that characterizes the Ostromian approach to institutions, to better account for the complexity of the world, especially in light of the new advances in artificial intelligence and autonomous machines. This theoretical shift manages, on the one hand, to keep the individual as cognizer in a privileged spot in an asymmetrical assemblage, while also providing a better model of the world for a *modus vivendi* political philosophy based on value pluralism (Gray 2000, pp. 63–64) and praxis.

The first line of arguments focuses on the specific field of institutional analysis, especially on the work done inside the Bloomington Institutional Analysis and Development (IAD) program (Aligica and Boettke 2009). Institutions are a relevant focus of social inquiry, as they constitute islands of stability (Pickering 2014) in which numerous kinds of actors converge on multiple levels, and they have also been the foci of multiple social science approaches, from economics to sociology and anthropology.

This specific approach to institutional analysis has been chosen for two main reasons. The first one is its interdisciplinarity, as it combines insights from multiple disciplines and has even tried to bridge the gap with natural sciences through specific case studies and theorizing that address social-ecological systems as a whole (Ostrom 2009). The second one is its empiricism, as the fieldwork involved also deals with specific grounded practices and often has a strong anthropological commitment.

Additionally, the Bloomington institutionalist approach also seems compatible with a different ontology in which the active role of non-human entities can be acknowledged, despite its methodological individualism. It sees the nature of goods and services as the “main driver of institutional arrangements,” without considering it an “ontological given” (Aligica and Boettke 2009, p. 76), since it depends on technological and institutional arrangements. It also sees choice as “the basic and defining element for both humans and the social order they create” (Aligica and Boettke 2009, p. 104), which is partially compatible with the approach on cognition detailed below and also results in a world that is more fluid and vulnerable than reified.

Despite the promising insights described above, institutional analysis has, in practice, a couple of shortcomings (addressed in the following sections), which can benefit from insights from Science and Technology Studies (STS) as well as anthropology.

The first one concerns the way differences among actors are portrayed. The focus on choice makes institutional work seem mostly cognitive, with human agents being brought together or set apart based on different preferences, and influenced by various objectified variables that lead to a set of choices. Moreover, cognition is seen as a process circumscribed to the mind, not extended or distributed in the world. In this frame, actors are black-boxed

entities, as little attention is paid to the way they become unfolded as different subjectivities, including the ways in which choices are formed and the process of choosing actually takes place.

Second, from an ontological perspective, most institutional frameworks function along the lines of the nature–culture and subject–object divides. Humans, as subjects, are at the center, while the rest of the entities are swallowed by context, the environment (as resources to be exploited), or simply become variables affecting choices and decision-making. Drawing on insights from the ontological turn in anthropology and STS, I aim to describe a new world in which different kinds of actors end up entangled while performing different realities, which still manages to remain compatible with institutional analysis, especially through the concept of polycentric governance.

In the following two sections, I will discuss these two shortcomings from different but complementary perspectives. In Section 2, I will show how difference doesn't just emerge out of the mind of the actors and is instead distributed not just in the body but in the environment as well. The argument is based on an embodied cognition perspective that heavily draws on anthropological work. In Section 3, starting from various social science approaches circumscribed under the “ontological turn,” the notion of agency will be extended to non-human actors, both natural and artificial, in an attempt to rethink the foundational subject–object divide and change the way in which we consider institutional work.

The last part of the chapter draws on case studies that partly overlap with previous work aligned with the institutional analysis and development framework, in order to offer two insights that have the potential to enhance the institutional analysis approach. However, it does not offer a direct methodological solution to do so.

The first insight has to do with the role and nature of non-human entities in institutional work. Although the IAD framework has tried to reconcile multidisciplinary approaches through applied fieldwork on social-ecological systems (SES), it did not manage to transcend the fundamental subject–object divide, especially in the case of natural non-human actors. There has, however, been significant work inspired by STS approaches into the contribution of these kinds of actors in institutional work. Moreover, the same capacity to act can also be granted to artificial non-human actors, especially considering the challenges brought by recent technological developments in the field of artificial intelligence, something that did not exist at this scale during the initial development of the IAD framework.

The second insight starts from Katherine Hayles' approach on cognition and her notion of *cognitive assemblages* (Hayles 2017). Similarly to Callon's notion of *qualitative agencies* (Callon et al. 2021), the concept is able to accommodate an extended view on cognition that can not only include other non-human

entities, but also manages to take choice out of people's minds and place it at the heart of the assemblage. Finally, the notion of difference takes on a whole new meaning, as the meaningful unit of analysis becomes the assemblage, not the human. This is an especially relevant shift, compatible with *modus vivendi* and value pluralism philosophies acknowledging that "even our most radical choices are not the expression of purely subjective preferences" (Gray 2000, p. 65), as it grants us a conceptual apparatus that is able to help us unpack black-boxed notions such as choice or value and to decenter and ground morality in praxis, by filling in its material "missing masses" (Latour 1992).

Just as Michel Callon, we deliberately choose not to not lose ourselves "into the depths of the human soul, without any hope of return" (Callon et al. 2021) and follow instead the alternative approach, focused not so much on psychology, but on praxis. In a sense, this chapter pushes further the argument advanced by Manor in this book (see Chapter 2), going from an ideational conception not to a social, but to a much more material one, addressing the "tacit" knowledge problem more extensively presented by Cheang (see Chapter 6 in this book).

2. CONCEPTUALIZING DIFFERENCE

What does difference really mean? We propose to start by assessing what makes us human in order to investigate where the specific differences come into being and to identify the main variables or factors at play in enacting those differences.

Economics (institutional or not) is usually centered on the notion of individual preferences² just like sociology often focuses on opinions. Although there are different ways of framing the concepts, they further relate to the notion of information and how different actors deal with it.

Seen in this light, difference is portrayed as being an almost purely cognitive process, in which the assumed conception of cognition conceives of it as a purely mental process, circumscribed to the minds of the actors involved. However, there is a lot of research and theorizing showing not just that cognition is not restricted to humans (Hayles 2017), but that it does not begin and end inside our brains (Clark 2008), or that our being in the world is, in fact, not a cognitive, but "a performative achievement, continuously or from time to time performatively negotiated" (Pickering 2014, p. 122). This extended view of cognition takes into account many other factors, starting with the body and going well beyond it, incorporating material culture, social interactions, and various other external factors situated in the environment. An overview of these factors has been provided in a seminal article in philosophy, asking one seemingly simple question: What makes a body (Johnson 2008)? Although an essay in speculative philosophy, Johnson's endeavor identifies five dimensions

of human embodiment that are both irreducible and intertwined, which he calls the biological, ecological, phenomenological, social, and cultural dimensions. By switching from body to dimensions of human embodiment, Johnson, like many others, is trying to go beyond both Cartesian dualism and the nature–culture divide referred to in much of the STS work (Latour and Porter 1993) and to find better concepts to address “what is out there.” His extended notion of the body incorporates cognition as well as a myriad of other relationships and outside elements central to our becoming.

Other authors went further in refuting the traditional terminology by proposing, instead of the body, “somatic modes of attention” (Csordas 1993), “sensory-affective-motor practices propped on material culture” (Warnier 2007, 2011) or by dismissing anything resembling the body and proposing “enskilment” as a replacement for culture (Ingold 2000). These new conceptual constructs are not just linguistic artifacts, as they often come with a wide array of mid-range analytical concepts enabling us to identify, describe, and talk about things and processes that have been previously subjected to a scientific blackboxing that renders them opaque (Latour 2000, p. 183).

Assuming that, when we are talking about human agents or people, we are instead looking at open-ended entities whose becoming is dependent on ecological performative practices propped upon material culture, a new way of imagining and analyzing difference opens.

Even in anthropology, when confronted with the exotic, the uncanny, or, in more recent attempts at ecological thinking, the “strange stranger” (Morton 2010), researchers have tended to address such differences in terms of a “credibility gap” (Warnier 2011).³ In other words, we often tend to dismiss apparently unexplainable accounts by integrating them into opaque categories such as beliefs, which for some anthropologists translate into an inability to “take other people seriously” (Ingold 2018). The other is thus different because of different beliefs or world views, and rarely because of different lived experiences. What we are actually confronted with, however, is what Warnier calls a “subjectivity gap” (Warnier 2011), which is an ontological distinction. Difference, here, is not just a matter of beliefs but has been created, even enacted (Law and Lien 2013; Mol 2002) through different practices, involving different sensory-affective-motor conducts, with the help of different materialities. We are therefore dealing with ontologically different subjects. Understanding difference hence requires us not to get into the minds of the other, but into their practices and into the objects, or material culture, supporting those practices. It calls for an open mind and an attempt to see different things instead of simply stating that other people see things differently (Holbraad and Pedersen 2017, p. 6).

Embodying difference and entangling it with practices and materiality allows us not just to understand it better, but it can also provide different ways and instruments of conceptualizing and enacting change. Considering that

most public discourse is still permeated by the assumption that differences are explained by psychological concepts, such as mentalities,⁴ one of the main questions various social science experts get asked in public is “how do we change mentalities,” as these are often assumed to be in the way of social change or, worse, social progress. But words, ideas, and preferences often meet their limits when the social scientist tries not just to assess difference, but even to understand and describe the world out there. What really happens in the world, and especially why it happens, often eludes language, a fact which poses a difficult methodological problem to social sciences. If there is a lot going on beyond our conscious awareness, like the Global Workspace System Theory posits (Baars 1997), and since social scientists usually ask people various things in order to find out their opinions, perspectives, or preferences, how do we escape what Warnier calls the “Magritte effect,” in which we are only confronted with representations instead of the real, material, tangible thing (or practice)? The answer, according to some anthropologists and historians looking into material culture, is through objects and the practices they afford. And, in this regard, French historian Audoin-Rouzeau’s magistral work of reconstructing everyday life combat from World War I through an object such as the artisanal dagger used by soldiers (Audoin-Rouzeau 2014) sets a great example, as the materiality of the dagger allows him to understand a hand-to-hand aspect of the war that was absent in most of the texts.

Difference can thus be portrayed, more accurately, as stemming from what political philosophers call different “ways of life” (Galston 2002; Gray 2000), and being practical, material, and thoroughly embodied. Different actors are dissimilar not just because of some psychological attributes that cause them to enact a different kind of calculus, but due to their being brought up as organisms in a complex, socio-material world which plays an active role in that calculating process.

3. AGENCY, PERFORMATIVITY, AND MULTIPLICITY

Work done under the label of the ontological turn (Holbraad and Pedersen 2017; Pickering 2017) seems, at first glance, to destabilize much of the previous theorizing about the world and, especially, about people, since the black-boxed concepts it strives to replace were a lot more stable and enduring. Ontological diversity, especially if enacted in practice, seems to portray a world that is particularly fluid. Before addressing the topic of stability, however, some more destabilizing is needed in order to account for the role of the other entities populating the world, entities that a large part of social theory neglected either on account of their lack of agency or due to their being relegated to the object side of the subject–object divide.

We tend to see people in contrast with other beings, or on a different ontological footing. One might say that this is part of a long, self-legitimizing effort on behalf of all non-natural sciences, which tried to establish their domain by postulating the ontological difference as an argument to justify their existence. This could partly explain the long focus on epistemology and how we (humans) can get to know the world, which permeated both philosophy and the social sciences for a very long time.

Recently, however, there have been various “turns” all over the scene, most notably what has been called the ontological turn in anthropology and science and technology studies, but also newer strains of thought in continental philosophy, such as object-oriented ontology, or OOO (Harman 2018). In a way, the ontological turn, especially in anthropology, is just a return to the discipline’s beginnings and an effort to look towards the world with a much more open mind, allowing it to be discovered, instead of trying to impose on it our own conceptual lenses. In another, the ontological turn is partly consistent with a return toward material culture, practice, as well as with what philosopher Timothy Morton calls ecological thinking (Morton 2010), a way of recognizing the interconnectedness and entanglement in the world (Tsing 2021).

Many of the schools of thought that would fit the ontological turn label advocate for flat ontologies. In other words, humans are just one kind of entity among others, placed on equal ontological footing. This seems profoundly anti-anthropocentric, and in some ways it is. However, it is worth mentioning that equal ontological footing does not (always) mean there is no difference between humans and non-humans, despite some approaches trying to minimize these differences. They do so either through advocating some sort of vitalist view of materials (Bennett 2010), a symmetry between humans and non-humans (actor–network theory, ANT), or other similar characteristics (Harman 2018; Bryant 2011).

By taking into account the ways in which humans interact with the world, traditional approaches centered on human agency tend to see the latter at the disposition of the former, who are relatively free to enact them in different ways. Technology, for instance, is seen as a tool enhancing the capacity of human agents and is “implicated in social change at their discretion” (Boudreau and Robey 2005, p. 4). Some of the theories mentioned above, however, by conceptualizing technologies as material agents, are able to portray them as able to alter action and relationships, as well as to constrain them, in “a manner similar to social structures” (Boudreau and Robey 2005, p. 4), something especially relevant when considering the role of larger technological infrastructures in shaping social processes and also portrayed by Demerew’s blockchain contractualism elsewhere in this volume (see Demerew, Chapter 5 in this book).

If other entities besides humans are granted agentic capacities, sustaining the subject/object divide quickly becomes impossible, as does the ability to take anything in the world for granted, especially if one adopts the perspective coined in most of the STS-informed work, such as ANT.⁵ Most stable constructs, from technological objects to institutional relations, thus appear to be the result of loosely coordinated practices and networks that vary from one place to another. Reality, in this case, becomes multiple (Mol 2002), as are the various practices that enact it. This ontological perspective is, however, not just placed in a better position to account for technological, social, or institutional change but also for stability by identifying what exactly makes a configuration stable and how stability is diffused between various practices and agents. Moreover, it grants us the methodological toolkit to investigate the performativity of practices and to address the ways in which the foundational premises of scientific work come into being, while being compatible with both the *modus vivendi* focus on practices and with most of the polycentric governance literature, although it requires a more serious ontological and implicitly methodological adjustment for both.

Viewed through the lens of performativity, a polycentric system becomes strikingly similar to the multiple realities perspective mentioned above, from anthropology and STS, which might also be also due to the fact that the original concept of polycentricity was coined by Polanyi, following observations of how scientific research is organized. However, later on, the polycentric project departed from the field of the philosophy of science and was explored in an entirely different branch (Aligica and Tarko 2012), that appears to have little interaction with what became known as the field of STS.

As Polanyi observed in the field of science, the polycentric organization means that “the authority structure has to allow a multitude of opinions to exist, and to allow them not just as hypotheticals but as ideas actually implemented into practice” (Aligica and Tarko 2012). It is these specific ideas implemented into practice that, we might argue, give birth to an ontological multiplicity, something that the Bloomington school has yet to acknowledge, as for most of the Ostromian-inspired work on institutions and polycentricity, the members of the system are not so much “flesh and blood individuals, but [...] institutional roles within that system,” more precisely “a bundle of rights and obligations attached to an individual” (Aligica and Tarko 2012). Similarly, *modus vivendi* political philosophy seems to acknowledge the possibility of different worlds and ontological instability, which is the main basis for its critique of a liberal project based on values (Gray 2000), but still seems to fall back on an ontologically unique individual on whom the different ways of life in which he engages just seem to bestow additional qualities or preferences.

What if, instead, we consider different ways of life as well as different centers of decision-making in a polycentric system⁶ as making different kinds

of people up and enacting different realities? An especially strong argument can be made regarding people and human action, since, following Hacking's dynamic nominalism, "what I am deliberately doing depends on the possibilities of description" and "numerous kinds of human beings and human acts come into being hand in hand with our invention of the categories labeling them" (Hacking 2013).

On the other hand, material agency becomes as relevant as ever, with increasingly more complex technology being developed, in certain cases even explicitly designed to be autonomous. With the rise of artificial intelligence applications, sensors, and the internet of things (IoT), as well as large language models, the world becomes increasingly populated with artificial, non-human entities that are playing active roles in maintaining societies, sometimes even striving to replace humans, but that are also often endowed with agency by human "users." Considering them as inactive tools, at best extensions of human capabilities, doesn't just fail to do them justice, it can also blind us to fundamental changes in the world we live in.

Consider, for example, the impact that the widespread use of drones has on warfare, as well as the challenges posed by lethal autonomous weapons systems (LAWS), as highlighted by Chamayou (Chamayou and Lloyd 2015). What could be considered a mere tool to wage war by other means has radically altered the landscape, raised important ethical issues yet to be resolved (Benjamin 2013; Roach & Eckert 2020), and completely reconfigured some fundamental warfare distinctions, such as that between combatants and non-combatants.

4. INTEGRATION WITH INSTITUTIONAL ANALYSIS

One might wonder how the different ontological approaches from anthropology and STS overlap with current work on institutions and what we might learn from them to enhance existing frameworks and especially devise solutions for governing increasingly polarized societies. One possible answer comes from looking at categories of sites that have been subjected both to institutional analysis, STS, and anthropological fieldwork, and where we can identify similar practices under focus, as well as an explicit assemblage of human and non-human agency at work.

The sites have been selected taking into account, on the one hand, the nature of non-human agency at play, and, on the other hand, the entanglement between institutional practices and the environment, with a particular focus on the effects of different kinds of institutional practices on the world. We thus have, in our first category, case studies in which natural non-human agency is discussed, as well as case studies where artificial (or technological) non-human agency is highlighted. Second, we have cases that address the notion

of performativity, with a focus on the ontological effects of different practices, showing that different sites and practices result in multiple ontologies (Mol 2002).

Instead of addressing them separately, we prefer to focus on a couple of insights selected from the ontological turn in anthropology and STS that can be integrated into institutional analysis, using various examples to support our argument.

4.1 Resources Are Not Just Natural Objects Being Involved in Institutional Work by Human Actors

Starting from Elinor Ostrom's approach to complex social-ecological systems, or SES (Ostrom 2009), where we learn that "all humanly used resources are embedded in complex, social-ecological systems" (p. 419) as well as the observation that the various subsystems have been subjected to analysis by different disciplines that have developed separately, even though they produce outcomes at the SES level, the first contribution from anthropology and STS concerns the ontological status of the various entities under consideration, as well as the ontological and ecological results of interactions between the different subsystems identified in Ostrom's framework.

Nature, in this kind of ecological systems thinking, is conceived solely through its relevance for human agents, evident in the framework's employment of object-like concepts such as resource system or resource units, pitted against the more agentic users and governance systems. In other words, nature is a passive resource with the potential to be managed and used in economic settings.

There have been numerous attempts to integrate natural non-human entities into economics and institutional work, from attempts to enlarge the classical definition of stakeholders (Starik 1995) to more recent works influenced by ANT (Leonardi 2011; Monteiro and Nicolini 2015; Taupin 2019) portraying the important role played by material entities in institutional change. Non-human participants in institutional work have thus been shown to be more than mere objects, simply extending human agency or enabling it in different ways, but crucial participants that can even play a negative role. As Latour observed, "we seem to get techniques on one side and social relations on the other only when we believe that social or human relations are enough to hold society together" (Latour 1993), which is impossible in modern societies. Non-human actors have been delegated the "task of fulfilling parts of the programs of actions," and they are the ones that make society durable (Latour, 1990), even when they seem "purely technical artifacts" (Johnson 1988).

Most institutional work has, however, adopted a much more passive role for material and natural objects, simply as accompanying institutional work

(Taupin 2019) or as passive variables in complicated frameworks (Ostrom et al. 2008), despite the role of technology being sometimes explicitly acknowledged as crucial for the development of institutions and entangled with their creation, and warning against the risks of “considering it in a rigid fashion” (Boudreaux et al. 2007, p. 96).

This mainstream approach is embedded in a stable perspective about the world as being made up of “knowable and reliable entities,” in which our relationship with it can be “in principle at least, a cognitive one” (Pickering 2014, p. 123). This happens, however, because those “stories of fixed and knowable worlds are [...] built on [...] islands of performative stability” (Pickering 2014, p. 123), relationships between things, both human and non-human, that have been stabilized by enduring, performative work, including institutional work. The main issue, however, is that those stable configurations are nothing but “chancy performative achievements” (Pickering 2014) that can easily break up.

Considering the world as an open-ended technical-ecological-system should,⁷ nonetheless, start from acknowledging that we are actually dealing with a mangle of practice (Pickering 1993), in which the constantly enacted entanglement between human and non-human agents is the norm rather than the exception. Natural objects are not just resources to be managed and extracted but active agents that often shape institutional work more than just in terms of natural constraints. Taupin’s case study of the role the Atlantic Ocean played in institutional work in a surfing-focused seaside town in France, following coastal erosion, shows how what was an initial “given” resource becomes slowly acknowledged as a powerful actor that not only started institutional work but played an active role in rearranging the local economy (Taupin 2019). In practice, the author even claims that “in the case of natural nonhuman actors, once their action reaches the stage of a potential physical threat, their inclusion in the collective identity is inevitable,” which is what triggers the subsequent institutional work. This claim is very similar to one reached in an entirely different setting, that of debates on morality and LAWS, where the possible agentic status of, this time non-human, non-natural entities, comes to the fore once the possibility of autonomy, under the guise of artificial intelligence-powered drones or killer robots, becomes a potential threat (Roach and Eckert, 2020).

A different insight can be obtained through STS work on salmon farming in the Atlantic (Law and Lien 2013; Lien and Law 2011), that shows that by attending to practices and performativity, we may become “more sensitive to relations between humans and other living beings” and that both “nature and salmon are being performed together, through various acts of differentiation that constitute what they both are” (Lien and Law 2011). There is no pre-determined, predefined resource that is being exploited. Instead, resources and nature come into being through the practices of which they are a part, and they

are not just performed but also altered by the practices. The salmon, as the body (Mol 2003), is multiple, and different institutional arrangements come to perform different kinds of entities, in different practices.⁸ The same applies to different kinds of institutional settings, as demonstrated by Callon's analysis of markets (Callon et al. 2021) and his use of calculative agencies in his theory of market agencements. As he rightfully remarks, in what he calls the theories of interface markets,⁹ goods are given and their properties are stable, following a foundational dissymmetry between agents and goods, which also overlaps with the great divide between people and things, foundational for Western law (Callon et al. 2021). However, this is an untenable distinction that ignores the fact that neither side of the divide is a given, but can only occur following numerous set of processes; the result is "always fragile and temporary" (Callon et al. 2021).

This insight proves to be both challenging and prolific for polycentric governance studies, especially with regard to one of its main dimensions, "overlapping jurisdictions in the range of authority for different decision centres" (Stephan et al. 2019). Considering the performativity argument outlined in a previous section, a specific focus of inquiry would be the way in which different agencies unfold in multiple centers of governance, as well as the role played by non-human actors in polycentric institutional work or the way in which the different realities enacted by these centers are coordinated in various kinds of "ontological choreographies" (Thompson 2005).

4.2 Cognition Isn't Restricted to Human Agents and Doesn't Take Place in a Disembodied Mind

Starting from the institutional analysis and development framework, the current section proposes a new approach on cognition that can shed additional light on the role non-human agents play in decision-making processes. It aims to bring down to earth, from the depths of the human mind, the concept of institutional choice, by showing how a more extended perspective on cognition recognizes the roles various kinds of non-human actors play in the structuring of preferences and individual differences.

One does not need to embrace a flat ontology, like OOO or ANT, to grant a more significant role to materiality and address non-human agency. Anthropologists drawing on Peircean semiotics and biosemiotics have been able to identify a distinctively human difference by appealing to the human capacity to use symbolic signs, instead of just iconic or indexical signs (Kohn 2015). Similarly, a focus on cognition can help us differentiate between various kinds of actors with different cognitive capacities, essential in decision-making.

In order to do so, we appeal to Katherine Hayles' definition of cognition as a "process that interprets information within contexts that connect it with

meaning” (Hayles 2017, p. 22). This allows for a transfer of capacity from the biological to the technical, more broadly detailed in her “tripartite framework of (human) cognition” (Hayles 2017, p. 27), a pyramid with three layers, made from consciousness on top, unconsciousness in the middle, and nonconscious cognition (or material processes) at the bottom. Together, the top two layers are brought together under the name of “modes of awareness,” since the unconscious, understood here as an anthropological rather than psychoanalytical concept, easily communicates with consciousness. What separates the two main layers and is the crucial difference between cognizers and material processes are choice and decision, which only arise at the top of the pyramid and lead to “possibilities for interpretation and meaning” (Hayles 2017, p. 28). Natural non-human agents have, in this framework, the capacity for cognition, as long as they contain material processes, just like some material non-human agents, but they are usually not cognizers, lacking the capacity for choice and decision-making.

In order to account for the entanglement between human and non-human actors, as well as for the role of materiality in influencing cognition, including choice and decisions, the notion of cognitive assemblage gives us a much better understanding of the way in which cognitive processes usually occur in real-life situations, especially when institutional work is involved. The cognitive assemblage refers to “complex interactions between human and nonhuman cognizers and their abilities to enlist material forces” (Hayles 2017, p. 115). It “emphasizes the flow of information through a system and the choices and decisions that create, modify, and interpret the flow. While a cognitive assemblage may include material agents and forces (and almost always does so), it is the cognizers within the assemblage that enlist these affordances and direct their powers to act in complex situations” (Hayles 2017, p. 116).

Getting back to the institutional analysis and development framework, the individual making the choice is based on a loose conception of rational actors, acting on variables such as expected benefits, expected costs, internalized norms, and discount rates, that “affect individual choices of strategies in any situation” (Ostrom 1990, p. 193). Despite the emphasis on situational variables instead of the internal cognitive process of calculation, the process per se is still dependent on dematerialized and disembodied information, or *data*, and is still concentrated on the individual level and not distributed. The external world is only relevant as it is a resource from which the individual extracts information or, at most, as an active variable that forcefully feeds data to the decision maker.

Considering, however, the important role that technology plays in actively shaping cognition, how should we consider the process of institutional choice to accommodate the extended view of cognition presented above? If decisions are distributed through cognitive assemblages, in which material entities are

enlisted, and if different kinds of affordances (Gibson 1979) appear due to different entities being enlisted, perhaps a more accurate way of investigating institutions would be to concentrate on the various ways in which cognitive assemblages come into being, the types of choices they afford, and the ways in which non-human entities manage to influence the process.

Considering the recent works on artificial intelligence and infrastructures, the focus on cognitive assemblages allows for a better understanding of the roles and constraints of technological infrastructures in shaping decisions and institutions, but also on how technologies based on algorithms and artificial intelligence change assemblages, frame choices, and affect decision-making and even trust among actors. This enables us to retain the “rationality on the part of decision-making units” (Buchanan and Tullock 1990, p. 31) that permeates mainline economics, while also allowing material agency to step in.

Regarding the role of infrastructures, we can observe that human agents are often not rational actors, in the economic sense, regardless of how strict their rationality is, but “agents caught up in dramatic arcs beyond their control, susceptible to the design of others” (Seaver, 2019, p. 6). Digital infrastructures, for instance, often take shape as “captological designs,” infrastructure becoming a “trap in slow motion” (Seaver 2019, p. 12), that hosts “our thinking and living” (Seaver 2019, p. 12). We can envisage them as part of cognitive assemblages, but in the IAD framework, they are also placed both inside and outside of the institutional analyst’s action arena.

As cognizers can be trapped in larger infrastructural webs, can we still use a framework based on individual rationality and choice without taking into consideration the way cognition is distributed in and constrained by a much larger assemblage? As Callon noted in his analysis of markets, “sometimes the tools supplant those who use them, imposing their mimetic logic without meeting any pushback” (Callon et al. 2021).

So, what happens when choices are no longer made by the non-human cognizant in the assemblage or are being made without a human cognizant? How would we identify the flow of information or the way in which cognition is distributed among actors if we’re not looking specifically at how decisions come into being in these complex configurations? A seemingly simple case concerns everyday life choices made by cognitive assemblages comprising activity trackers, in which the non-human cognizant (the algorithm embedded in the tracker) ends up taking the main role in informing action, and sensors end up dethroning even senses when it comes to trust (Dincovici forthcoming). In more complex, institutional work, especially once algorithms come into play, the consequences can be more dire.

Seen in this light, difference, even the one in values implied by value pluralism, can be both informed and shaped inside an assemblage, with an increasingly significant influence on behalf of the non-human components. Moreover,

in practice, conflicts revolving around values tend to be not just between different ways of life in human communities, but also between values embedded in human communities and values embedded in material agents, such as digital platforms (Bonini and Treré 2024).

5. CONCLUSION

Vincent Ostrom remarked that “we rely on different agents to perform essential functions, but they are our agents, to be held accountable to the performance of limited functions” (Ostrom 1997, p. xiii). Following the previous arguments, one can only agree with the first part of the observation, while acknowledging that this limited view of agency needs to be reworked in order to include the non-human actors to whom functions get delegated. And once the accommodation takes place, accountability can be seen in a different light, not as a given, but as a scientific object of inquiry in its own right.

However, since the institutional analysis and development framework, as much of the work on institutions, is based on a specific world view (Aligica and Boettke 2009), perhaps the first step toward adjusting it should be to adjust the world view and consider reality as a “relational effect,” that is “produced and stabilized in interaction that is simultaneously material and social” (Law and Urry 2004). Going further might take us into the realm of “ontological politics” (Mol 1999), where we are forced to address the relevance as well as the implications of using the notion of choice in a world that is performed in a variety of practices (Mol 1999, 2011).

NOTES

1. We chose description instead of representation at this point, since at least one of the aforementioned sciences, anthropology, has long dealt with a “crisis of representation” (Marcus and Fischer 2004, p. 8), which traces back to post-modernist critique (Lyotard 1984).
2. See, for instance, Ostrom 2008, p. 33.
3. Viveiros de Castro deals with this issue when he states that: “When a shaman shows you a magic arrow extracted from a sick man, a medium gets possessed by a god, a sorcerer laboriously constructs a voodoo doll, we only see one thing: Society (belief, power, fetishism). In other words, we only see ourselves” (de Castro 2015, p. 14).
4. In Romania, for instance, a lot of public debates were generated by a book relating to the psychological profile of Romanians (David 2015), and there are still academic publications trying to explain various national differences by appealing to the role of mentality (Nita 2020) as well as privately funded research reports using mentality as a main descriptor of national character (Ionescu 2021).

5. Delving deeper into the differences between the various kinds of ontologies does not fall within the scope of this chapter, but it is worth mentioning that the instability of the world is tackled differently by philosophical theories in speculative realism, such as object-oriented ontology, compared to ANT. OOO tries to position itself between scientific approaches that take things to be aggregates of smaller bits (for instance, atoms) and social science approaches such as ANT, which describe things solely by their capacity to form relations with other things (actor-network).
6. See, for a similar description from anthropology/STS, Mol's work on the multiplicity of atherosclerosis in a hospital in the Netherlands (Mol 2003), if we can consider the various medical specialties in a hospital as polycentric centers of decision-making.
7. Starting from the "technology is society made durable" (Latour 1990) adage, speaking of technical-ecological systems seems more appropriate in order to shift the focus from society to technics, that is, to practices propped on materiality.
8. Law and Lien mention, in this regard, a vignette from 2007, when the Norwegian Institute for Marine Research reacted to a governmental agency, the Norwegian Biodiversity Information Centre, which had earlier blacklisted Atlantic salmon as an invasive species, by posting on their website an article with the heading "Escaped farmed salmon is not an alien species" (Lien and Law 2011). The Atlantic salmon thus performed by the extensive farming industry became, in time, a different, both real and "scientific species." This brings up questions about the performative effects of institutional arrangements and their effects on the "resources" that are being managed, showing that the relationship between institutional work, seen through the lens of performative practices, and the resources being enmeshed in those practices is not one-sided.
9. Interface markets describe the ways in which most economic theorizing describes markets, and is opposed to the more performative approach Callon uses and calls *market agencements*.

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8. Modus vivendi, polycentricity, and “decolonizing” the study of the urban–rural divide

Kris Kanthak

1. INTRODUCTION

The global rise of anti-elite populism poses an existential threat to democracy worldwide. Many people outside of academia and urban centers feel excluded and maligned, potentially leading to a worldwide “revenge of places that don’t matter,” in which populist leaders can use this feeling of exclusion and disrespect to foment political strife and instability (Rodríguez-Pose 2018). Given this potential existential threat to democracy, it is no surprise that attitudes of rural and “left behind” regions have garnered tremendous attention from academic researchers in political science, sociology, psychology, and beyond. Notably, though, academics – who largely consider themselves “urbanites” – tend to portray people from rural and “left behind” places as subjects worthy of study and themselves as neutral observers, experts able to understand and assess the problems belonging solely to these “others.” This chapter is meant not to posit a solution to this problem but rather to explore the methodological difficulties associated with this research and to begin to construct a path forward for those who seek to understand, and to mitigate, the urban–rural divide.

The chapter explores the difficulty associated with the one-sided nature of the study of the urban–rural divide, where one side places itself as an exemplar of correct behavior and the sole possessor of “truth,” attempting to understand the pathologies of the other side, hoping (benevolently) to help them mend their ways to make them align more closely with the attitudes and behaviors of the preferred group. In this sense, then, the academic study of the deleterious consequences of the rise of “rural resentment” shows a surprising lack of curiosity among academics about the nature of these resentments, as if somehow the insults against rural living emerge whole cloth from the imaginations of rural Americans.

A *modus vivendi* approach would lead to higher-quality research because it would allow researchers to co-create an understanding of the differences between urban and rural dwellers. Most importantly, *modus vivendi* would bypass the assumption that researchers have the correct answer to the “happiness” question and subjects do not. Rather, *modus vivendi* skips the step where the researcher judges (even implicitly) their subjects, instead asking how urban dwellers are different from rural dwellers, rather than starting with the assumption that rural dwellers would be better off if they were to live and think more like the urbanites.

This is not to say, though, that academics are incapable of self-contemplation: The current movement toward “epistemological decolonization” of academia by thinking critically about how academia centers Western knowledge systems shows that academics are able to critique their own methods to contemplate myriad “ways of knowing” that go beyond their traditionally received epistemologies. “Decolonization,” in this sense, can be best understood as a subset of polycentricity. The polycentric framework advocates for shared processes of decision-making that value the diversity of opinion from people who see the same issue from different vantage points. Polycentricity calls for the elimination of experts from some centralized knowledge center, instead democratizing the understanding of what it means to know something and crediting those closest to the problem with a special understanding of how the problem truly arose, operates, and persists.

This chapter, then, considers how the academic understanding of the urban–rural divide might change and improve if academics were willing to take a more polycentric approach to gathering knowledge about the phenomenon. Doing so would allow a more holistic study of anti-elitism that accurately reflects their own role in the phenomenon. Specifically, I explore ways in which academic elites can work alongside rural community members to assess and address the problem of the urban–rural divide in a way that sees rural community members as co-creators of knowledge, rather than passive subjects for study.

2. THE CURRENT STATE OF THE POLITICAL SCIENCE LITERATURE ON THE URBAN–RURAL DIVIDE

The 2016 U.S. election elevated businessman Donald Trump to power, in a turn of events that caught much of academia by surprise. In response, myriad political scientists turned their attention to better understanding rural voters and how they differed from their urban counterparts. Much of this research took its place within a larger discussion of how identity affects political views, a long literature that has posited as drivers of political participation and ideology identities such as partisanship (Mason 2015), union membership (Kerrissey

and Schofer 2013), sports fandom (Kossakowski and Besta 2018), ethnicity (Penn 2008), and more.

And indeed, notions of rural identity seem to have a large effect on attitudes and behavior. As the literature has developed, measures of rural identity have changed, too. Early measures of rural identity included simply where people live, either by going to rural places and speaking to residents (Cramer 2016), or measuring the ruralness of an area using population density (Cho and Gimpel 2010), population size (Benedictis-Kessner and Warshaw 2020), and lack of “urban-ness” (Warshaw and Rodden 2012), among others. More recently, though, researchers have found rural identifiers live in non-rural spaces and that asking people to self-report their place-based identities creates a more useful measure of identity (Lunz Trujillo 2022). This work has led to the development and validation of a scale of rural identity (Oser et al. 2022).

And while it is well-known that living in a rural area is correlated with support for Donald Trump in the 2016 (Jadhav 2021) and 2020 elections (Johnson and Scala 2022), the relationship between rural identity and political action and choice is far more nuanced. For example, people from rural areas tend to feel resentment toward urban and academic elites who they feel do not even know the best interests of rural communities, let alone care about them (Cramer 2016). And these feelings of being left behind are not found solely in the U.S. People in rural areas of Europe, for example, are less likely to feel politically efficacious, but this does not correlate with the quantity of public goods provided (as shown by García del Horno, Rico, and Hernández 2023). Rather, they find, rural lack of political efficacy is tied to fewer mechanisms for formal political representation of rural areas. Furthermore, rural identity is tied to myriad perspectives about their place in the world, including anti-intellectualism (Lunz Trujillo 2022), attitudes toward mental health (Cheesmond, Davies, and Inder 2019), and even how one understands the role of race in American society (Dawkins et al. 2023).

3. WHAT THE EXTANT LITERATURE MIGHT BE MISSING

But this may not be the whole story. Researchers can answer only the questions that they choose to ask in the first place. Furthermore, researchers can understand the answers to the questions they ask on the basis of their own experiences. Put more colloquially, we don’t know what we don’t know. Put less colloquially, researchers are just as susceptible as anyone else to what is known as the Dunning–Krueger effect (Dunning 2011), whereby people fall prey to “meta-ignorance,” where poor performers in some domains are especially weak at understanding their own deficiencies. In the policy setting, this can lead to what Friedman (2020) calls “power without knowledge”: Technocrats

fail to understand how the mass public thinks, and mass publics fail to understand what technocrats know, a set of problems that is exacerbated because both sides enter the problem with an abundance of hubris to match their dearth of information.

And indeed, in one of the few studies of urban elite behavior, researchers found that intellectuals and anti-intellectuals have something in common: hubris. Epistemic hubris – the state of being so certain one is correct that one becomes closed-minded – is correlated with both intellectualism and anti-intellectualism, which work in tandem to increase incivility (Barker, Detamble, and Marietta 2022). In other words, incivility, particularly in the political realm, exists not apart from intellectuals but rather (at least in part) because of them. The urban–rural divide was likely collaboratively constructed. And most worrisome, the same hubris that led to the construction of the divide may now be playing a role in hiding the effects of researchers’ own hubris in that construction. Meta-ignorance, then, leads to meta-hubris.

This meta-hubris can lead to researchers thinking that they know better than non-researchers, whose lived experiences offer them information different from that of the researcher, which might be useful to the researcher if that researcher is willing to listen.

This concept of meta-hubris might be best illustrated via G.K. Chesterton’s fable. In his parable, Chesterton (1946) tells the story of a so-called “more modern type of reformer,” who happens upon a fence whose purpose he cannot discern. He opts to tear down the useless fence, but the “more intelligent type of reformer” intercedes, instructing his more modern counterpart that tearing down a fence whose function is unknown will yield unknown consequences, which the reformer ought to consider before moving forward with his plan.

Most notably for the current context, Chesterton’s parable makes very clear that a decision to destroy the fence is borne out of hubris. The fence, Chesterton explains, is unlikely to have been made by sleep-walkers or lunatics. Rather, he says, “Some person had some reason for thinking it would be a good thing for somebody” (Chesterton 1946, p. 26). The modern reformer doesn’t understand that person’s reasoning – indeed, is wholly uncurious about that reasoning. But this is not equivalent to that person lacking reasoning. We can think, then, of the rural landscape being dotted with these useful Chesterton’s fences. Upon seeing them, urban elites will destroy them in the name of helping the community, thus leaving the community worse off, now left without a fence and with the feeling elite researchers would rather wreak destruction than hear from someone who possesses a different viewpoint than their own. Meta-ignorance leads to meta-hubris, leading to exacerbated urban–rural divides (and fenceless livestock running loose).

4. POLYCENTRICITY AND THE QUEST FOR TRUTH

A vital part of the quest for truth is what Schumpeter calls our “preanalytical vision.” Those who are engaged in inquiry must first decide what questions are worth asking (Schumpeter 1954). And indeed, this is why polycentricity is the vital center of academic inquiry (Polanyi 1947). Researchers differ in their starting points – their “preanalytical visions” – and so reliance on some monocentric decision-maker to determine how to “do” science is antithetical to discovery. Different researchers can ask different questions: from understanding how African-Americans interact with their governments as much as white people do, but in different ways (Michener 2018) to knowledge that heart disease manifests differently in women than it does in men (Milner et al. 1999), polycentricity leads to this expansion of truth.

When researchers are free to create and consider their own methods and research questions, the result is a better understanding of truth. Academic freedom, Polanyi argues, exists in service to the “consistent expansion of some kind of truth” (Polanyi 1947, p. 39). But knowledge is “a social product much like any other” (Bhaskar 1975). When scientists attempt to build on previous discoveries, they are at the mercy of the “preanalytical vision” of those researchers who came before them. Furthermore, scientists can be constrained by the “preanalytical vision” of their research communities, even though those communities enhance scientific inquiry. The problem arises when social scientists try to draw a false distinction between researchers and those being researched. The notion of the researcher as a “detached and neutral observer” is a fiction (Mignolo 2009), and one that can do great harm to the quest for truth when researchers wrongly think they exist on a plane other than the one they are studying. Although knowledge is additive, culture is likely not. Those doing the observing wrongly assume that they are “above” culture, and “can allegedly ‘see through’ culture to the reality of human nature” (Ingold 2018).

In this sense, then, we can think of decolonization movements in the academy as a simple repackaging of polycentricity. Notably, polycentricity centers the quest for truth rather than researcher identity, whereas decolonization addresses biases in the academy that prevent equity of access to researcher communities. In her important book *Decolonizing Academia*, Rodríguez (2018) argues that because academia is itself racialized, people of color, especially women, may feel alienated from the academy. This imposes dramatic costs on these potential academics, making them less likely to remain in the academy as their full selves. Part memoir, part instruction manual, and part condemnation, Rodríguez’s contribution points to a larger academic discussion of decolonization as a means by which to expand the academic definition of “research” beyond the knowledge systems of Western culture.

Regardless of how one thinks about the problem, preventing a diversity of views from thriving in the search for knowledge stifles creativity and hampers discovery. These difficulties are exacerbated when researchers do not even consider that they might exist. When this happens, researchers may be engaging in the careful and reliable measurement of some unforeseen phenomenon rather than the one of interest.

5. A MEASUREMENT PROBLEM?

The problem of how subjects interpret the questions they are asked on surveys has existed as long as researchers have been conducting polls (Lazarsfeld 1944; Schuman and Presser 1977). Self-reported attitudes differ on the immigration issue, for example, depending on whether questions include factors such as the identity of the immigrant (Brader, Valentino, and Suhay 2008) or how the immigrant community is described (Ladini and Biolcati 2023). Equally difficult is the operationalization of variables of interest. Is the respondent thinking about a question the same way the asker is? For example, the “World Happiness Report” operationalizes “happiness” using a question that asks subjects to imagine their perfect life, and then report how close they were to that life (Helliwell et al. 2023). But this is certainly only one definition of happiness, perhaps closer to “satisfaction.” Indeed, operationalization of happiness in this way presumes that people with poor imaginations – those who cannot imagine much beyond what they already are – are happiest, an odd presumption to say the least.

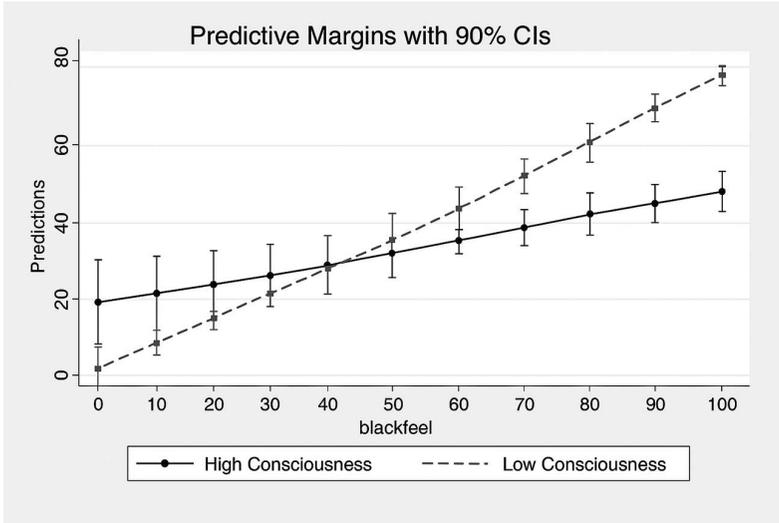
This issue is exacerbated when one considers how it applies to the *modus vivendi*/polycentricity problem. If academics are hoping to study the differences between urban and rural people, do we not run into difficulties associated with the fact that most academics likely consider themselves to be “urban”? Understanding how to operationalize variables and how to ask the question to measure the thing you want to measure is difficult under the best of circumstances. But hoping to understand people different from oneself requires a joint understanding of what survey questions mean, one that might be lacking when the asker and the asked have little in common.

Consider the example of research on the role of white identity in the political attitudes of white Americans. In many ways, this thread of research could be considered a triumph for the *modus vivendi*/polycentricity perspective. Myriad research studies have considered the role that black identity plays in how black voters make decisions, but white identity affects white voters, too (Jardina 2019). The “received wisdom” from earlier academic studies assumed that whiteness was the norm and not really worth studying, whereas understanding what black voters think was a “question of interest.”

At the same time, though, how one operationalizes white identity in a survey question may lead to confusion if some respondents think about the question differently than the researchers who constructed the questions. For example, much of the work on white identity politics centers on the use of three questions on public opinion surveys. Two of those questions address what researchers have operationalized as “race consciousness.” One question asks, essentially, about white grievance: “How likely is it that many whites are unable to find a job because employers are hiring minorities instead?” This conception of white grievance is correlated with explicit racism, but it is not the same, and it operates differentially from racism on a number of social attitudes (Jardina 2019). The second measure of race consciousness gets to a question of shared fate: “How important is it for whites to work together against laws that are harmful to whites?” This measure is correlated with white grievance but again is not the same. Importantly, though, this battery of white identity questions is included in the American National Elections Study (ANES 2024), thus allowing us to explore how subjects’ answers to these questions relate to their views on similar matters.

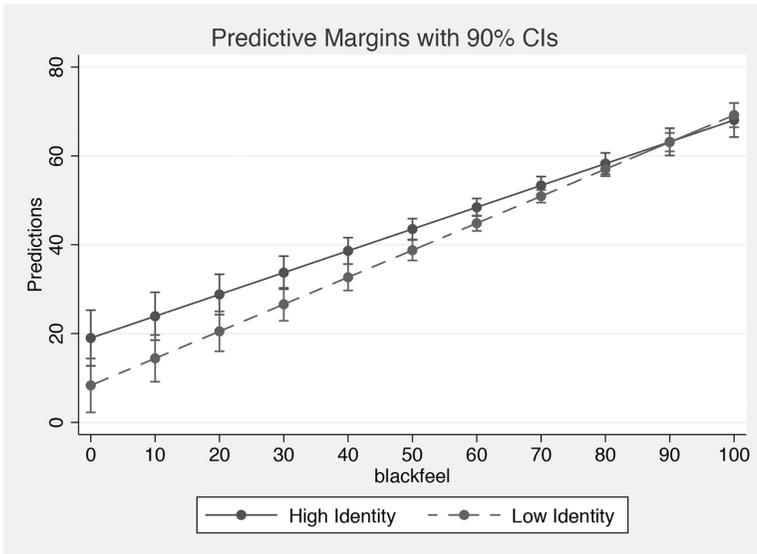
To better understand how these separate measures of race consciousness might affect relevant political attitudes, I interacted each measure of race consciousness in the ANES with several other variables. The ANES asks a series of “feeling thermometer” questions, whereby subjects are asked how warmly they feel about a variety of groups and people, and rate them on a scale from 100 (very warm) to 0 (very cold). In the current analysis, I use feeling thermometer scores for “blacks,” for the “Black Lives Matter movement,” and a variety of control variables (full analysis available from the author). In the analysis, I attempt to explore how race consciousness might interact with attitudes about black people in general to determine attitudes about a group like Black Lives Matter.

Figures 8.1 and 8.2 show graphs of the predicted feeling thermometer values for Black Lives Matter (BLM) movement (the y-axis), given a particular feeling thermometer value for black people in general. Not surprisingly, the two feeling thermometer scores are correlated in both cases. Figure 8.1 depicts a strong relationship between the attitudes about black people and attitudes about the BLM movement, but only for people who do not have high race consciousness. In other words, a white respondent who feels very strongly that whites need to work together to protect their jobs, feelings about black people themselves have a much more muted relationship with their view of BLM than people who have low values for this measure of race consciousness. Put another way, people with low race consciousness (i.e., white people who do not think minorities are taking their jobs) think about BLM largely what they think about black people. But people with high race consciousness (i.e., white people



Source: ANES (2024).

Figure 8.1 “Whites unable to find jobs”



Source: ANES (2024).

Figure 8.2 “Whites should work together”

who do think minorities are taking their jobs) do not see much of a relationship between attitudes about black people and about the BLM movement.

Figure 8.2, though, depicts a very different effect of race consciousness on the relationship between the black people and BLM feeling thermometer. Here, respondents who are measured as high in race consciousness show a similar relationship between the two feeling thermometers as people low in race consciousness. In other words, relatively high values for the black people feeling thermometer predict relatively high values for the BLM feeling thermometer, regardless of how much the person thinks that whites need to work together to fight laws unfair to whites.

Comparing these two charts, then, seems to indicate that these two measures of “race consciousness” do not operate similarly when it comes to understanding the relationship between attitudes about black people and about BLM. So, although much of the extant literature seems to assume these two measures of “white racial consciousness,” there appear to be differences between the two in how they operate.¹

So, what might be the difference between the two measures? The questions themselves appear to be different sides of the same coin. The “jobs” question asks about grievance toward out-groups, and the “working together” question asks about preference for in-groups. Is it possible, though, that some respondents read the question differently from the way the researchers intended? We know, for example, that rural dwellers tend to have greater social capital (Putnam 2000) and a greater sense of connection with their communities (Kitchen, Williams, and Chowhan 2012) than urbanites. If this is true, rural voters may be more likely to see the question as asking about working together, rather than specifically asking about working only with other white people, and may answer accordingly. But in doing so, their more communitarian feelings will be understood as race consciousness.

As a reminder, the “shared fate” question asks respondents about how important it is for white people to work together against laws that harm white people. It is possible, then, that some white respondents cue on the “working together” part of the race consciousness question, rather than the “whites” part of the question. In other words, a measure widely understood in the literature to be a measure of shared fate and race consciousness may actually be a measure of the value of “working together.” Furthermore, if true, researchers would surmise that rural voters have more race consciousness than urban voters, when in actuality they simply have a greater value for working together. Importantly, the analysis presented here is not diagnostic.

To be very clear, the role of communitarianism, rural voters, and responses to this survey question are mere speculation. We have far too little information to know whether this is actually happening, largely because researchers have not asked the question in a way that might assess the veracity of this

speculation. But again, this failure to ask the question is a clear example of the problem this chapter is attempting to illuminate.

6. A WAY FORWARD

Much as polycentricity calls for the co-creation of decisions and decolonization calls for the co-creation of knowledge, a way forward for better understanding the urban–rural divide seems to call for the co-creation of the variables of interest. In other words, researchers cannot treat rural dwellers as subjects for experiments and surveys. Rather, researchers must work with and beside the stakeholders in the communities about which they want to learn more. This helps to avoid the misspecification of variables of interest in a way that holds a place for quantitative research but at the same time values the contribution of a qualitative understanding of how variables must be correctly specified to be useful.

Happily, there is a third line of thinking within academia that offers a framework and a set of guidelines for conducting this sort of inquiry: community-engaged research. Community-engaged research draws on a reciprocal relationship between academics and members of the community to co-create research of interest to both parties (Dostilio et al. 2012). Drawing on what (Schram 2014) calls “citizen-centered research,” it engages with the community to co-create knowledge that allows knowledge to flow not just from the top down, but from the bottom up as well. Community-engaged research is by its very nature transdisciplinary (Dostilio et al. 2013) and so it is uniquely situated to provide guidance for a research endeavor that hopes to co-create understanding beyond academic and community silos. Furthermore, community-engaged research specifically centers on “mutually beneficial” work that attempts to solve shared problems (da Cruz 2018).

Importantly, community-engaged research is not a panacea. Ethical community-engaged research and service learning require a true commitment to the co-creation of knowledge, rather than simply using community partners in service to students’ learning goals (Eby 1998). Indeed, poorly constructed community-engaged research could further exacerbate the problems associated with the urban–rural divide while at the same time doing nothing to help solve the research problem itself. Constructing research designs that center the role of researchers as “experts” and sideline community members as subjects of that research merely puts community members in closer proximity to the tearing down of Chesterton’s fence. Researchers must be willing to hear from community members about the reasoning behind the fence. Otherwise, they need not bother to leave their offices.

To derive the potential benefits of community-engaged research, investigators must create and nurture real, mutually beneficial relationships based on

what Mirra (2018) calls “critical civic empathy.” This means that community-engaged work must consider the position and power of those involved, foreground the role of personal experience as a means of understanding “truths” about the world, and be based on a commitment to true equity and justice. Importantly, these real and truly mutually beneficial relationships can not only improve the quality of research on the urban–rural divide but could create the types of meaningful intergroup collaborations that might mitigate the very group-based conflict the research is meant to study (Schultz et al. forthcoming).

In the current context, we could imagine a series of focus groups centered on co-creating working groups to help address the question of the urban–rural divide. Rather than forgoing experiments and surveys, the group would work together to design experimental and survey instruments that provide unbiased (in the colloquial *and* statistical sense of the word) operationalizations of variables that will improve our ability to understand each other across the divide. And of course, the research agenda would require turning the research lens back toward the academic elites, with the hope of parsing and understanding the role they play in creating and exacerbating this problem. Most notably, the research would help us to understand why many people who otherwise think of themselves as compassionate, tolerant, and broad-minded feel very comfortable stereotyping rural dwellers as ignorant and backward. In this sense, the role of urban dwellers themselves in the creation and maintenance of the urban-rural divide will become a question worthy of study.

7. CONCLUDING THOUGHTS

This chapter attempts to put forward the rather provocative notion that decolonization and polycentricity proffer an identical recommendation: One ought not to rely on one central authority to determine which course of action or way of thinking is best. Rather, one should value a diversity of opinions and avoid hegemonies, whether the hegemony in question is the Western way of thinking or the administrative state.

When attempting to solve a problem as big as the urban–rural divide, it is particularly important that one avoids falling prey to the allure of epistemic hubris. The dangers of “meta-hubris” are great: It is easy to pathologize those who are different from oneself. But we cannot hope to understand the urban–rural divide by studying why rural people are not like urban people. Such an approach is at best a poor way to arrive at the truth, and, at worst, a very effective way of actually exacerbating the divide itself.

I make no claim that one short chapter can neatly tie concepts as diverse as decolonization, polycentricity, and community-engaged research into a perfect bow. Rather, I hope only to spark conversation about how, as academics, we already know what we need to do to co-create an understanding of the problem

we have all worked together to create. We cannot rely solely on the expertise of one entity, even if that entity is us. And, in fact, we not only know this fact, we know it from several different perspectives.

NOTE

1. Probably the most likely explanation for the difference is that people who think their jobs are at risk from minority groups will not be fond of minority groups organizing, regardless of whether they personally are willing to report cold feelings toward members of the minority groups themselves. This question, though, is beyond the scope of the current project.

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9. Coproduced collective security and the resiliency of modus vivendi pluralism

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1. INTRODUCTION

The concept of modus vivendi pluralism (McCabe 2014; Gray 2002; Neal 1993), emphasizes pragmatic coexistence and compromise among diverse communities, offering a framework for managing tensions that arise from differing cultural, religious, economic, and political norms. As global interactions become more frequent due to technology and migration, society has a need for political systems that can both maintain peace and stability without imposing uniformity across increasingly diverse populations. Modus vivendi pluralism provides a pathway for these diverse value systems to coexist because it prioritizes stability and mutual accommodation over consensus. In doing so, it acknowledges the reality of deep-seated differences while promoting a form of governance that avoids the pitfalls of enforced homogenization.

However, critics argue that the fragmented nature of modus vivendi systems makes them vulnerable to shocks, raising concerns about their long-term viability. The inherent flexibility that allows modus vivendi systems to accommodate diverse values may also render them susceptible to destabilization in times of crisis. This tension between flexibility and resilience poses a dilemma: while modus vivendi pluralism offers a promising approach to managing diversity, its endurance in the face of exogenous shocks is questionable. Their endurance may depend on their capacity to develop mechanisms for reinforcing stability without sacrificing the pluralism that is the basis of their legitimacy.

This chapter begins by exploring the challenges of resilience in systems built in a modus vivendi fashion. We pay particular attention to potential weaknesses of these systems. For example, how the absence of centralized authority may exacerbate coordination problems, create inefficiencies, and weaken collective responses during crises. Systems that can accommodate elements of modus vivendi governance are typically decentralized (Aligica 2019). This

is because distinct groups within a territory require some degree of autonomy within their own sphere.

In decentralized political systems, the lack of a unified command structure often leads to difficulties in organizing and executing a coherent response to threats. These coordination challenges can hinder the ability of such systems to maintain stability, especially in the face of external pressures or internal conflicts.

The chapter delves into these challenges, highlighting the balance that must be struck between maintaining pluralism and ensuring effective governance. It examines systems such as the Congress System in post-Napoleonic Europe and the National Pact in Lebanon to illustrate how the lack of central control can undermine the durability of *modus vivendi* arrangements.

The chapter then shifts to an economic analysis of inter-jurisdictional conflict, investigating how different jurisdictions within a *modus vivendi* framework can allocate resources between productive tasks and military capacity. By applying economic principles to the study of these dynamics, the chapter addresses the underlying incentives and behaviors that influence the stability and adaptability of *modus vivendi* arrangements. Jurisdictions within such systems must constantly navigate the trade-offs between investing in public goods and bolstering their defensive capabilities. This economic perspective helps to explain why some systems based on *modus vivendi* principles succeed in maintaining peace and stability, while others are prone to collapse under the weight of external threats or internal discord.

In response to the resilience challenges identified, the chapter discusses polycentric defense arrangements as a potential solution for enhancing the durability of *modus vivendi* systems. By distributing military capacity across multiple decision centers, polycentric systems can reduce the likelihood of rent-seeking behavior, which often plagues centralized defense structures, and improve the system's ability to adapt to environmental shocks. The chapter presents examples such as Switzerland's cantonal system, which allows for localized decision-making in defense matters, and the decentralized response to Hurricane Katrina in the United States, where multiple levels of government and civil society played crucial roles. These cases demonstrate how polycentric defense arrangements can bolster the resilience of *modus vivendi* systems, particularly when state institutions effectively coordinate these autonomous military centers to ensure a cohesive and robust defense strategy.

Finally, the chapter illustrates the value of viewing collective security as a coproduced service within *modus vivendi* arrangements, rather than a public good provided solely by a centralized state. It discusses how collective security can be achieved through collaboration among state institutions, local communities, private enterprises, and non-governmental organization (Alshamy et al.

2024). The coproduction model of security leverages the strengths of decentralized decision-making while promoting unified action when necessary.

The chapter concludes with an empirical illustration of Ukraine's collective security strategy against Russia, which integrates state and local resources within the hromada system, as a contemporary example of how coproduced defense arrangements can enhance resilience in national defense.

This paper highlights that the allocation of resources between military capacity and productive tasks not only reflects the strategic priorities of individual jurisdictions but also shapes their ability to collaborate effectively with one another. The economic lens here provides a valuable framework for understanding the trade-offs and incentives that drive both cooperation and conflict within decentralized systems.

The economic perspective underscores the importance of fostering coordination mechanisms that can support collective security without undermining the autonomy that is central to these systems. While this chapter primarily focuses on the dynamics of violent physical conflict and the corresponding investments in military capacity, the analytical framework presented here can be extended to other forms of conflict, including social, political, and digital domains. Just as jurisdictions allocate resources between productive tasks and military defense, they also make strategic decisions about how to manage and mitigate non-physical conflicts that can threaten the stability and cohesion of *modus vivendi* approaches. These conflicts may involve social tensions, political disputes, or cyber threats, all of which require a careful balancing of resources to ensure that resilience is maintained across multiple dimensions of governance.

2. THE CHALLENGE OF RESILIENCE IN *MODUS VIVENDI* PLURALISM

Modus vivendi pluralism is grounded in the idea that diverse value systems can coexist peacefully through pragmatic agreements and mutual accommodations (Horton 2010; Rossi 2010). It contrasts with more homogenizing approaches that seek to impose a single set of values or norms across different communities. The increasing diversity of value systems globally—shaped by cultural, religious, economic, and political differences—has made *modus vivendi* approaches to pluralism an attractive framework for maintaining peace and stability (Aligica 2018).

The resilience of these systems is unclear. Resilience refers to the ability of a system to withstand and recover from environmental shocks, such as economic crises, natural disasters, or political upheavals, while maintaining its core institutions and norms. Critics argue that the fragmented nature of such systems makes them vulnerable to such shocks, as the lack of centralized

authority could lead to coordination problems, inefficiencies, and a weakened collective response (Mason, 2018).

For example, during a natural disaster affecting multiple jurisdictions within a pluralistic system, the absence of a unified command structure may result in delays or inconsistencies in disaster response efforts (Storr, Grube, and Haeffele-Balch 2017). Coordination challenges can arise in resource allocation, information sharing, and logistical support, potentially prolonging recovery times and exacerbating the impact of the disaster on affected communities (Ostrom, 1999).

The Congress System, established after the Napoleonic Wars, serves as a prominent example of a *modus vivendi* arrangement whose resiliency was compromised by inadequate central coordination (Schroeder, 1994). Conceived to maintain peace and balance of power in Europe, the system relied heavily on ad-hoc meetings among the Great Powers without a centralized authority to enforce decisions or manage conflicts effectively. The inability to address emerging challenges, such as the revolutions in Spain and Italy, exposed the system's fragility. By 1822, the system collapsed. This demonstrated that the absence of a cohesive coordinating mechanism can undermine the durability of such arrangements.

Similarly, the national pact adopted in Lebanon in 1943 exemplifies the vulnerabilities of *modus vivendi* systems when central coordination is lacking. This unwritten agreement between Lebanon's Christian and Muslim communities was designed to share power and prevent sectarian conflict. While it initially maintained a delicate balance, the pact's effectiveness eroded over time due to the absence of a central authority capable of managing political changes and external pressures (Bahout 2016). By the 1970s, rising tensions and inadequate coordination led to the collapse of this arrangement, ultimately resulting in the Lebanese Civil War (1975–1990). This case highlights the critical role of central coordination in sustaining the resilience of *modus vivendi* systems in the face of evolving challenges (Rabinovich 1989).

Efficiency concerns also arise in decentralized systems where resources are allocated independently by local decision-makers. In the context of national defense and security, for instance, decentralized militaries may prioritize local interests over broader national security priorities. Moreover, without centralized oversight or coordination mechanisms, there is a risk of duplication of efforts and inefficiencies in resource allocation. Local decision-makers may lack the strategic perspective or comprehensive data needed to make informed decisions that optimize overall system resilience and effectiveness (Olson, 1993).

The Hanseatic League, a commercial and defensive confederation of merchant guilds and market towns in Northwestern and Central Europe from the 12th to the seventeenth century, is an illustrative case of a *modus vivendi*

arrangement compromised by misaligned incentives. Despite its goal to promote mutual economic interests among member cities, the League's lack of centralized control led to conflicting priorities. Individual cities often pursued their own economic agendas, undermining the collective goals of the League. As cities increasingly prioritized local benefits over the broader interests of the confederation, the League's operational efficiency deteriorated, contributing to its eventual decline (Dollinger, 1999).

Similarly, the United States under the Articles of Confederation (1781–1789) provides a clear example of how the absence of central control can lead to duplication of effort, severely compromising the efficiency of a *modus vivendi* arrangement. The Articles created a weak central government, unable to enforce national policies or effectively coordinate state actions. As a result, individual states maintained their own militias, currencies, and trade policies, leading to inefficient and redundant efforts. For instance, competing trade agreements by different states weakened the nation's overall economic position. These inefficiencies were a major factor in the decision to replace the Articles of Confederation with the US Constitution in 1789 (Jensen, 1940).

Finally, a fragmented governance structure can weaken the collective response capabilities of *modus vivendi* systems during crises that require unified action. In scenarios involving transnational threats such as terrorism or pandemic outbreaks, cohesive international cooperation and unified policy responses are essential (Keohane & Nye, 2000). Decentralized systems may struggle to achieve consensus or act swiftly in such situations, potentially leaving vulnerabilities exposed and compromising overall security and stability (Hardin, 1982).

The Holy Roman Empire (962–1806) serves as an example of a *modus vivendi* arrangement whose resilience was compromised by the absence of central control, leading to a weakened collective response. Composed of a vast array of semi-autonomous principalities, free cities, and kingdoms, the Empire was held together by a loose structure with the emperor exerting limited authority over the constituent territories. This fragmentation meant that the Empire struggled to present a unified front, especially during critical periods such as the Thirty Years' War (1618–1648). The competing interests and lack of centralized coordination among the various entities within the Empire undermined its ability to respond effectively to both internal and external threats. Over time, this weakened collective response contributed to the Empire's gradual decline and eventual dissolution in 1806, demonstrating how the absence of robust central control can erode the resilience of a *modus vivendi* system (Whaley, 2012).

The examples discussed illustrate the vulnerabilities inherent in *modus vivendi* systems, particularly when central control is absent or weak. Whether through misaligned incentives, duplication of effort, or weakened collective

responses, the lack of centralized authority can lead to inefficiencies, conflicts, and ultimately, the collapse of these systems. The fragmented nature of *modus vivendi* arrangements often exacerbates these challenges. While *modus vivendi* pluralism offers a promising framework for managing diversity and maintaining peace, its resilience depends on the ability to balance local autonomy with effective coordination and unified responses to common threats.

3. ECONOMIC ANALYSIS OF INTER-JURISDICTIONAL CONFLICT

To better understand how arrangements that resemble *modus vivendi* approaches can attain resiliency despite their decentralized nature, it is useful to first cast the issue of inter-jurisdictional conflict within an economic lens. By viewing decisions related to military capacity and conflict as economic choices, we can analyze how jurisdictions allocate resources between productive tasks and defense. This economic perspective helps elucidate the incentives and behaviors that influence the stability and adaptability of these arrangements. Furthermore, examining these dynamics through an economic framework highlights the role of coordination mechanisms and institutional arrangements in mitigating risks and ensuring effective responses to disruptions.

More broadly, the field of conflict economics examines the economic causes, dynamics, and consequences of conflict, both within and between states. It integrates insights from economics, political science, and sociology to analyze how resource competition, political power struggles, and strategic interactions drive conflicts. Scholars in this field study various forms of conflict, including civil wars, interstate wars, and insurgencies, with a focus on understanding how economic factors influence conflict initiation, duration, and resolution (Garfinkel & Skaperdas, 2012). The study of conflict economics explores the role of institutions and governance in mitigating or exacerbating conflicts, emphasizing the importance of economic policies and structural conditions in fostering peace and stability (Collier & Hoeffler, 2004).

In any system, resources must be allocated between various productive tasks and military capacity. Productive tasks include activities that contribute to economic growth and social welfare, such as education, healthcare, and infrastructure development. Military capacity, on the other hand, involves the allocation of resources towards defense and security measures. The spending choices of a jurisdiction along these two directions will shape how they are able to cooperate with other separate jurisdictions that are concurrently making similar investment choices.

Jurisdictions invest in military capacity to ensure collective security and deter potential aggressors, protecting sovereignty and territorial integrity

(Mearsheimer, 2001; Schelling, 1966). A robust military safeguards strategic interests such as economic resources and trade routes (Art, 2003) and plays a critical role in peacekeeping and stabilization missions, maintaining order and supporting humanitarian efforts (Diehl, 2008). Military forces are essential during natural disasters and emergencies, providing logistical support and manpower for effective relief efforts (Perry & Neal, 2007). Investment in military capacity also drives technological innovation, with advancements in fields like aerospace and communications benefiting the broader economy (Alic et al., 1992). Additionally, a strong military enhances political influence on the global stage and strengthens international alliances (Walt, 1987), while also helping maintain internal security and stability (Posen, 1984).

When jurisdictions, however, allocate excessive resources to military capacity at the expense of productive tasks, it can lead to rent-seeking behaviors, where resources are diverted from beneficial uses to sustain and expand military dominance (Olson, 1993). This dynamic can create vulnerabilities within the system, as the focus on military expansion undermines economic stability and social welfare, making the system more susceptible to environmental shocks. This dynamic creates vulnerabilities within the system, as the focus on military expansion undermines economic stability and social welfare, making the system more susceptible to environmental shocks (Collier & Hoeffler, 2004).

An imbalance of military power across allied jurisdictions can also undermine the growth of productive relationships between them. When one ally possesses disproportionately superior military capabilities compared to others within the alliance, it can create dynamics of dependency, distrust, and imbalance in decision-making processes (Walt, 1987). The dominant ally may exert undue influence or dictate terms that prioritize its own security concerns over collective interests. This imbalance can lead to resentment and friction among allies, eroding mutual trust and cooperation essential for fostering productive relationships (Mearsheimer, 2001). Moreover, weaker allies may feel compelled to allocate more resources to military buildup, diverting funds from economic development and other collaborative efforts. This diversion not only strains their economies but also diminishes their capacity to contribute meaningfully to shared goals such as trade partnerships, infrastructure projects, or diplomatic initiatives. An imbalance in military power can distort the alliance's unity and effectiveness, hindering the potential for mutually beneficial cooperation and undermining broader efforts towards regional or global stability.

Analyzing inter-jurisdictional conflict through an economic lens offers insights into the dynamics of resource allocation and its impact on the resilience of a system. By viewing military and productive investments as competing choices, we better understand how jurisdictions balance their strategies to

ensure both security and development. Excessive focus on military capacity can destabilize economic stability and social welfare, leading to vulnerabilities that can undermine collective resilience. Likewise, imbalances in military power within alliances can erode trust and cooperation, affecting the efficacy of collective efforts. Ultimately, this economic perspective suggests the importance of balanced resource allocation in fostering adaptable systems capable of navigating the challenges of inter-jurisdictional conflict.

4. POLYCENTRIC DEFENSE ARRANGEMENTS

Polycentric systems inherently promote local autonomy and accountability, creating an environment where decision-makers are closely attuned to the needs and preferences of their immediate constituencies (Aligica and Tarko, 2012). This approach is rooted in the work of Vincent and Elinor Ostrom, who argued that multiple centers of decision-making within a governance framework could foster more effective and adaptable solutions to collective action problems. Vincent Ostrom emphasized that polycentric governance allows for a diverse array of decision-making units to operate semi-independently while still coordinating within a broader system, thereby preventing the concentration of power and enabling more context-specific responses to local needs (V. Ostrom 1973; 1999a). Elinor Ostrom expanded on this concept through her empirical research, demonstrating that polycentric governance structures often outperform centralized systems by utilizing local knowledge and fostering collaboration among various stakeholders to sustainably manage common-pool resources (E. Ostrom 1990).

This alignment between governance and local conditions is particularly advantageous in dynamic and diverse settings, where challenges and opportunities can vary significantly across regions. By empowering local decision centers, polycentric systems enable a more responsive and adaptive governance model, as these centers are better equipped to identify and address specific issues in their jurisdictions. For example, decentralized governance allows local actors to respond swiftly to environmental shocks, mobilizing resources and implementing tailored solutions that reflect the unique characteristics and needs of their communities (Agrawal and Ostrom 2001). This localized focus not only enhances the effectiveness of governance but also fosters a sense of ownership and responsibility among local actors, who are directly accountable to their communities. Such responsiveness is critical for ensuring that the broader system remains stable and resilient, particularly in the face of unforeseen challenges.

In the context of defense, polycentric arrangements—where military capacity is distributed across multiple decision centers—present a solution to the challenges of resilience in *modus vivendi* systems (V. Ostrom 1999b). By

decentralizing military power, these arrangements reduce the concentration of authority and the associated risks of rent-seeking behavior, where resources might otherwise be diverted from productive tasks to sustain or expand military dominance (Benson, 2006). This decentralization not only discourages the misuse of resources but also strengthens the overall resilience of the system by maintaining a balance between defense needs and other critical societal functions. In polycentric defense systems, the distribution of military resources across various centers can allow for a more diversified and flexible approach to security, enabling a coordinated yet adaptable response to threats.

A relevant example of a polycentric defense arrangement is Switzerland's cantonal system, where defense responsibilities are distributed across the country's 26 cantons. Each canton manages its own civil defense infrastructure, which is coordinated with the federal government to ensure a unified response during crises (Dardanelli and Mueller 2019). This decentralized approach allows cantons to develop defense strategies suited to their specific regional needs and conditions. For example, during a natural disaster, cantonal authorities can quickly mobilize local resources and implement region-specific response plans, leveraging their knowledge of local circumstances (Kriesi & Trechsel, 2008).

State institutions and organizations still play a crucial role in coordinating autonomous military centers in polycentric defense arrangements (Weber, 1922). Effective coordination is essential to ensuring a cohesive response to system disruptions and preventing fragmented efforts that could undermine overall security (Kahler & Lake, 2003). State institutions can facilitate communication, resource sharing, and strategic planning among the various decision centers, thereby enhancing the collective capacity to address threats and maintain stability.

This coordination does not mean a return to centralized control, but instead emphasizes the importance of collaborative frameworks that respect the autonomy of individual centers while promoting unified action when necessary (Keohane & Nye, 2000). Such frameworks can include joint training exercises, shared intelligence networks, and cooperative defense initiatives that leverage the strengths of each decision center while mitigating the risks of fragmentation (V. Ostrom, Tiebout, and Warren 1961). Joint training exercises, for example, can help build trust and interoperability among different defense centers, ensuring that they can work together effectively in times of crisis. Shared intelligence networks enable the rapid dissemination of critical information, allowing decision centers to respond swiftly to emerging threats. Cooperative defense initiatives can pool resources and expertise, enhancing the overall effectiveness and efficiency of the defense network.

Ukraine's current military strategy against Russia exemplifies a notable collaboration between the central government and autonomous local entities,

reflecting a sophisticated integration of state and local resources in a conflict setting. The hromada system, a key component of Ukraine's administrative structure, plays a critical role in this collaboration. Hromadas are local self-governing units with significant autonomy, empowered to manage local affairs and resources effectively. They were created as independent self-governing units as a key aspect of reform after the Maidan uprising in 2014. In the context of the ongoing conflict, these local entities have been instrumental in supporting the national military effort by organizing civilian defense initiatives, coordinating local volunteer units, and facilitating logistical support for Ukrainian forces (Keudel and Huss 2024; Keudel and Huss, n.d.). This decentralized approach enables rapid and localized responses to threats, leveraging local knowledge and resources to complement the national military strategy.

Moreover, the collaboration between state and local entities under the hromada system has been key to maintaining operational flexibility and resilience (Brik and Murtazashvili 2022). Local leaders have been able to mobilize community support, manage humanitarian and development assistance, and ensure the stability and continuity of essential services during war. Ukraine has effectively enhanced its military strategy's adaptability and effectiveness by its ability to harness the capability and autonomy of local subnational units. This cooperation underscores the importance of a collaborative framework where decentralized units can contribute meaningfully to national defense, demonstrating a model of resilience and coordination in the face of external aggression. During this time, however, key military decisions are made by national authorities in Kyiv—not by subnational units.

The role of state institutions in this context is to facilitate and coordinate, ensuring that the various decision centers can collaborate effectively while maintaining their autonomy. This approach leverages the strengths of both centralized and decentralized systems, combining the flexibility and responsiveness of local decision-making with the strategic coherence and resource pooling of centralized coordination.

5. COLLECTIVE SECURITY AS A COPRODUCED SERVICE

The analysis presented supports the view that collective security in *modus vivendi* arrangements should be seen as a *coproducted* service rather than a pure public good provided solely by a centralized state. In this context, security is the result of collaborative efforts among multiple autonomous entities, each contributing to the overall stability and resilience of the system (Chayes & Chayes, 1995).

More broadly, the concept of coproduction refers to the collaborative process in which public services are jointly produced by government agencies and

citizens or community groups. This approach emphasizes the active involvement of non-state actors in the design, delivery, and evaluation of services, aiming to leverage local knowledge, resources, and expertise to enhance service effectiveness and efficiency. Coproduction involves shared responsibilities and decision-making between public authorities and community members, fostering greater engagement and ownership (Ngo, Edelenbos, and Gianoli 2019). Theoretical foundations of coproduction suggest that involving users in service production can lead to more tailored and responsive services, improved satisfaction, and better outcomes (Ostrom, 1996).

Coproduction has been applied in various contexts, including healthcare, education, and urban planning. For example, in healthcare, patients and healthcare providers work together to manage chronic conditions through self-care programs, resulting in improved health outcomes and reduced healthcare costs. In urban planning, community-led initiatives often engage residents in designing and implementing local projects, such as neighborhood improvement plans or public space revitalizations, which enhance local relevance and community buy-in (Bovaird, 2007). These applications demonstrate the practical benefits of coproduction in enhancing public service delivery by harnessing the combined strengths of both state and non-state actors.

In practical terms, coproduced security involves the active participation of various stakeholders, including local communities, private enterprises, and non-governmental organizations (NGOs), in addition to state institutions and military entities. This inclusive approach ensures that security measures are comprehensive and multifaceted, addressing the full spectrum of threats and challenges that a society may face. The coproduction model acknowledges the diversity of value systems and leverages the strengths of decentralized decision-making to enhance system resilience (Sandler & Arce, 2003). By promoting a pluralistic approach to national security, *modus vivendi* arrangements can better respond to environmental shocks and maintain the institutions and norms that underpin societal well-being (Hardin, 1982).

For instance, local communities have historically been instrumental in identifying and mitigating security threats within their areas by utilizing their unique insights and local knowledge. An example of this is evident during the London Blitz in World War II, where local community wardens played a crucial role in coordinating responses to air raids, including spotting fires, organizing evacuations, and managing air-raid precautions, which supplemented broader national defense efforts (Calder, 1992). NGOs have provided essential support services, such as humanitarian aid and disaster relief, which complement the efforts of state institutions and military entities. For example, in the aftermath of the 2010 Haiti earthquake, organizations like the Red Cross and Médecins Sans Frontières were crucial in delivering immediate healthcare,

food, and water, effectively addressing urgent needs while state and military response capacities were mobilized (Farmer, 2011).

Ukraine's current collective-security strategy reflects an evolved understanding of national defense that aligns closely with the principles of coproduction. By integrating both state and non-state actors, including local governments, volunteer organizations, and civil society, Ukraine has harnessed a broad range of resources and expertise in its defense efforts. This collaborative approach mirrors the coproduced view of national defense, where the government and local entities jointly participate in planning, executing, and adapting security measures. Local hromadas, for instance, play a crucial role in organizing civilian defense units, managing humanitarian aid, and providing logistical support to the national military. This decentralized yet coordinated effort enhances the overall effectiveness and resilience of Ukraine's defense strategy by leveraging local knowledge and mobilizing community engagement to complement the national military's capabilities, thereby building a more robust and adaptive defense network.

Coproduced defense arrangements can offer effective coordination by integrating the contributions and expertise of diverse stakeholders while mitigating the risks associated with power imbalances. In such systems, the collaborative approach ensures that decision-making processes are inclusive, allowing for the integration of local knowledge and resources into national defense strategies. By emphasizing shared responsibilities and mutual goals, these arrangements foster a sense of collective ownership and accountability, which can help to balance power dynamics. Coproduced defense arrangements facilitate ongoing communication and feedback loops among participants, which further aids in maintaining balance and coordination. Regular interactions and collaborative problem-solving ensure that all members have a voice in addressing challenges and adapting strategies. This engagement helps to identify and resolve issues arising from power imbalances before they escalate. This, in turn, fosters a more equitable and responsive defense system.

6. CONCLUSION

The analysis of *modus vivendi* approaches to pluralism here underscores the complexities and potential of this framework for managing diverse value systems in an increasingly interconnected world. While *modus vivendi* approaches offer a pragmatic approach to coexistence by prioritizing stability and compromise over uniformity, their resilience remains a central concern. The absence of centralized control in these pluralistic systems often leads to coordination challenges and sometimes weakened collective responses. These cases highlight the vulnerabilities inherent in decentralized arrangements and

the critical need for effective coordination mechanisms to maintain the durability of *modus vivendi* approaches.

The chapter identifies pathways through which *modus vivendi* arrangements can enhance resilience of governance systems, particularly through the adoption of polycentric defense structures. By distributing military capacity across multiple decision centers, these systems can reduce the risks of rent-seeking behavior and improve adaptability in the face of environmental shocks. Furthermore, viewing collective security as a coproduced service, involving a wide range of stakeholders—from state institutions to local communities and private enterprises—offers a promising model for achieving resilience in *modus vivendi* systems. This approach not only addresses the challenges of power imbalances but also fosters greater ownership and accountability across all levels of governance. The Ukrainian collective security strategy, which effectively integrates state and local resources, serves as a contemporary example of how coproduced defense arrangements can successfully enhance national defense capabilities.

While this chapter primarily focused on the dynamics of violent physical conflict and corresponding investments in military capacity, the analytical framework presented here can also be extended to security threats emerging from non-physical forms of conflict. These include social tensions, political disputes, and cyber threats, all of which pose significant risks to the stability and cohesion of systems that adopt *modus vivendi* characteristics. Just as decentralized jurisdictions allocate resources between productive tasks and military defense, they must also navigate strategic decisions to manage and mitigate these non-physical conflicts effectively. Polycentric approaches may be instrumental in addressing such challenges, as they enable rapid and context-specific responses that are critical in digital and political domains. For this reason, the application of a *modus vivendi* approach in governance almost requires the adoption of polycentric principles of governance.

There are important boundaries and scope conditions for the application of coproduced defense. Should coproduced defense rely on formal organizations that explicitly coordinate activities, or could it be more effective to establish rules and norms that guide the actions of stakeholders? This question has significant implications for the coordination, flexibility, and resilience of coproduced defense systems within *modus vivendi* frameworks.

Formal organizations tasked with coordinating coproduced defense could provide clear structures for decision-making, resource allocation, and accountability. These organizations would, thus, have the authority to enforce agreements, manage conflicts, and ensure that all participants are aligned with the overarching security goals. The creation of such organizations, however, might result in the centralization of political power, potentially affecting the autonomy and local responsiveness that coproduction seeks to foster. On the other

hand, a system based on shared rules and norms could promote flexibility and adaptability by allowing local entities to maintain independence while contributing to collective security efforts. Such an approach could empower local decision-makers to respond quickly to emerging threats, though it may also present challenges in terms of achieving consistent implementation and unified action when necessary. The balance between these approaches remains a critical area for future research.

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