

The Open Society and Its Friends

With Friends Like These, Who Needs Enemies?

Gerald Gaus (University of Arizona)

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[A boy talks to his relatives across a fence separating Mexico and the United States, in Tijuana, Mexico, November 12, 2016. REUTERS/Jorge Duenes].

1. An *Annus Horribilis* for the Open Society

When those in the U.K. and the U.S. wished each other well on January 1, 2016, very few thought we were welcoming in one of the worst years in memory — and beyond — for what Karl Popper and F. A. Hayek called the “open society.”¹ By the close of the year the two great Anglo-American democracies shocked themselves and the world by apparently turning their backs on diversity, tolerance, innovation, and openness to the world. Having defended the open society in the Second World War, half of their populations were enticed by a promise of a reactionary and discriminatory closed society. It was particularly shocking in the United States, where a bigoted, bullying, nationalist gained the presidency.

Neither Hayek nor Popper, I think, would have been as deeply shocked by the election results as many of us who have been complacent in thinking that the post-war victories of the open society were an irreversible achievement. Popper began *The Open Society and Its Enemies* by proclaiming that his aim was to wrestle with:

“difficulties faced by a civilization which aims at humaneness and reasonableness, at equality and freedom; a civilization which is still in its infancy, and which continues to grow in spite of the fact that it has been betrayed by so many of the intellectual leaders of mankind. It attempts to show that this civilization has not yet fully recovered from the shock of its birth — the transition from the tribal or “closed society,” with its submission to magical forces, to the “open society” which sets free the critical powers of man. It attempts to show that the shock of this transition is one of the factors that have made possible the rise of those reactionary movements which have tried, and still try, to overthrow civilization and to return to tribalism.”²

Popper and Hayek agreed that the open society’s perennial enemy is the natural human proclivity to seek out a closed, “tribal” society. In their terms, 2016 witnessed a resurgent tribal outlook, a yearning for an homogenous, stable, controlled society.

Although Popper and Hayek concurred in defending the diversity and tolerance of the open society, they ultimately disagreed in their understanding of its nature. For Hayek the open society is an evolving moral, legal and economic framework that encourages

toleration, trust, mutually advantageous interactions, and the flow of information that, over the last few hundred years, an increasing number of individuals have embraced. For him the core of the open society is free and willing cooperation of strangers on the basis of rules that allow each space to effectively pursue her aims and values. He repeatedly insisted that in an open society we must take tradition seriously, and must resist the temptation to overestimate our ability to rationally understand, much less guide, such a society. In contrast, Popper advocated what I shall describe as a “sectarian” perspective on the open society. As the above quotation indicates, his open society was defined by opposition to “superstition” and “magic,” a devotion to reason, science and to humans’ critical powers. The “superstitious,” who reject secularism, follow traditional rules without understanding their function, and are skeptical of our ability to rationally understand our society, are essentially classified among the enemies of the open society.

In the face of the menace of National Socialism these differences were insignificant. In the 1930s and 40s the friends of the open society engaged in a struggle to the death with the forces of maniacal tribalism in their purest form. Today, however, we can better see the importance of the differences in Hayek’s and Popper’s analyses. I believe that the Popperian, sectarian, vision — which is, I reckon, the predominant view of today’s “friends of the open society” — is deeply flawed, inadvertently encouraging a retreat to the very reactionary tribalism it opposes. When we reflect on the disaster of 2016 we should not just smugly look at the enemies of the open society — “them,” “the others,” or “the desplicables,” as Clinton so inadvisability put it — but its friends, and the arrogant and condescending stance they have too-often taken up.

2. The Enduring Attraction of the Closed Society

One might think that Popper’s and Hayek’s insistence on the appeal of the “tribal” outlook is a bit of anachronistic anthropology and psychology. Surely, one might think, there is no such appeal in our nature, and no reputable scientist would think there is. This would be an error. In the last twenty years, almost everything we have learned about human evolution bears out their idea. We evolved in relatively homogeneous groups competing with other such groups. Those that could more effectively unite for group benefit outcompeted those

that were, in a sense, more individualistic.³ Psychologists have recently found that one of the most natural of all human proclivities is to distinguish “Us” from “Them,” to work for “Us,” and compete with, and exclude, “Them.” With extraordinary ease, we divide into competing groups, even when those groups are characterized by arbitrary criteria, such as the ability to estimate dots on a page.⁴ Ethnic markers distinguishing Us from Them appear a basic outcome of cultural evolution.⁵ Joshua Greene echoes Hayek:

“In sum, our brains are wired for tribalism. We intuitively divide the world into Us and Them, and favor Us over Them. We begin as infants, using linguistic cues, which historically have been reliable markers of group membership. In the modern world we discriminate on race (among other things), but race is not a deep, innate, psychology category. Rather it is just one among many possible markers for group membership. ...[W]e readily sort people into Them and Us based on the most arbitrary of criteria. This sounds crazy, and in many ways it is. But it’s what one might expect from a species that survives by cooperating in large groups — large enough that members cannot identify one another without the help of culturally acquired identity badges.”⁶

Greene thus resurrects Popper’s and Hayek’s term to describe us — tribal. An enduring theme in Hayek’s work was that the open society must entice people to forsake the closed, tribal-like, homogenous societies most of us hanker after. As both the Brexit and Trump campaigns so marvelously and ominously demonstrated, people are readily cued to see diversity as a sign of the alien — one of Them, whom we must exclude. Responding that we are “stronger together” misses the point — we can only *be Us by* excluding some Them. When people feel insecure and beleaguered, the forces of tribalism are ready to assert themselves. Evidence shows that group identity increases in time of danger, insecurity and loss.⁷ Jonathan Haidt hypothesizes that humans possess a “hive switch,” which can lead people to combine in the common identity of Us, distinguishing ourselves from the alien Them.⁸ There are always politicians doing their best to flip that switch — whether they call it the nation, Englishness,⁹ Americanism, or the Volk.

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The themes of the Brexit and Trump campaigns were rife with closed-society, tribal, appeals. Their ineffective opposition sought to campaign for a Popperian open society, one of diversity, science and individual rights, based on “rational economic policy.” These latter appeals entirely failed to move half the population. Why would so many twenty-first century Britons and Americans reject this vision of the open society, which we thought was our common heritage?

3. Setting Aside a Facile, Popular, and Comforting (to the *Intelligentsia*) Enemy: “They (the Idiot People) Have Finally Got Their Way”

Consider first a currently popular explanation. Looking at the often deeply empirically dubious campaign for British exit from the European Union and the far more loony Trump candidacy, with its stream of unsupported and often blatantly false claims, it is tempting to put the blame squarely on one great idea: democracy. A *prima facie* plausible tale is that in Europe and the United States during the post-war era, the elites got together and made deals, and ensured that whatever disagreements characterized popular politics did not endanger the basic settlement on the two pillars of the post-war order: NATO and the Bretton Woods institutions, with their commitment to open economies. In Europe this also included economic and ultimately political integration. This, we might say, was an “elite-guided democracy,” which kept “the idiot people” from causing too much trouble. As political scientists and economists have repeatedly told us, the mass of people are essentially clueless about what is going on in politics or the rudiments of economics. Indeed, sophisticated reasoning itself is often beyond most people.¹⁰ In the last thirty years, elites, according to this tale, increasingly have lost control, and democracies are much more apt to express the (idiotic) will of the people, e.g., for unilaterally increased tariffs with a firm expectation of no decrease in exports; higher tariffs without increased prices; low taxes, few spending cuts but no deficits; mushrooming deficits with no significant costs to the economy; sharp reduction of immigration with no loss of productivity or innovation; impossible walls that Mexico will (never) pay for to decrease illegal immigration (after it

already has greatly decreased); and a political debate obsessed about what toilets 0.3 percent of the population are to use. The list, alas, goes on and on.

It all is, indeed, pretty strange stuff. And certainly those political philosophers (and there have been many) who have idolized democracy, the people, and political engagement, have powerful reason to pause and reconsider whether political collective decision-making possesses the noble virtues that they have perceived in it. For the past two decades too many political philosophers have modeled politics in mass societies as a “deliberative democracy,” which seems more apt as an idealization of the deliberations of a well-functioning philosophy department. There is nothing inherently ennobling about mass democracy, in which millions of people vote to decide which party gets to impose its favored coercive policies on those who dissent. The idea of a polis of 300 million people deliberating about civic virtue is indeed bizarre.

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So this tale tells us we have succumbed to the danger about which John Stuart Mill warned in 1861: a representative government may be controlled by a “low grade of intelligence.”¹¹ It is a comforting tale to most of the *intelligentsia* — at least the blame is not theirs. Yet once again the people have let them down. However, while the tale is based on some truth, it is ultimately facile; we should not let the opponents of democracy use our *annus horribilis* to advance their agenda. Theoretically, how competent the public is depends greatly on what it is asked and how: there is no unambiguous answer to this question.¹² And in some cases a diverse, less competent large population arrives at better answers than an homogenous group of experts.¹³ Of course democracy can, and does, lead to awful results like 2016, as does any political system. It now may be banal, but the Churchillian view of democracy is the soundest: it is not especially great, but better than the alternatives. Elites have bumbled about again and again, with horrendous costs. Eugenic policies were pushed by scientific and liberal elites in the late nineteenth and early twentieth centuries.¹⁴ The Vietnam War, with conservative estimates of total war deaths of over a million (and others going much higher) was an elite-driven project — one halted by the

“idiot people.” In economics, the disaster of the euro, and the tremendous costs saving it has had on the economies of southern Europe, was entirely elite-driven. And we should not forget the role of flawed expert economic models in the financial crisis of 2008.

Perhaps foremost in our minds today is the polling experts’ truly awful model-based predictions of the presidential race. After the failures of experts to predict the 2015 United Kingdom parliamentary election and the Brexit vote, many assumed that, having been twice publicly humiliated, they would have fixed their models and data collection techniques (a very few outliers may have, see §4). While at the level of overall popular vote they generally correctly predicted that Clinton would win (but often by a much larger margin than eventuated), predictions of the outcome of the Electoral College were, overall, miserable. On the eve of the election *The New York Times*’ sophisticated model of the likelihood of possible paths to Electoral College victory yielded a probability of 85% that Clinton would win (down from an incredible 93% on October 22). At no point in electoral season was a Trump victory held likely. Of course this does not show that the expert predictions were falsified: they allowed that a Trump victory was possible, and sure enough it occurred. One-off predictions are notoriously hard to evaluate.¹⁵ The critical question is “whether the forecast materially helps or misleads the user” and here I think it is clear the forecasting was seriously misleading.¹⁶

4. “Epistemic Arrogance”¹⁷

In supporting Brexit, Michael Gove declared “people in this country have had enough of experts.”¹⁸ A striking characteristic of the Brexit and Trump campaigns was that supporters dismissed the warnings of experts. Almost the entire economics profession warned that Brexit would incur very significant costs to the U.K.’s economic performance; the calculations of its supporters, who claimed that Great Britain would ultimately benefit financially and economically, were, let us say, rather dubious. When the Trump campaign actually did make policy proposals, such as banning Muslims from entry to the U.S., ripping up trade agreements, building a wall with Mexico and its taxation “plans,” they were generally savaged by legal and economic experts. But none of this savaging had much effect.

On the *intelligentsia's* comforting narrative, none of this is a surprise: *hoi polloi* are idiots, and idiots don't take good advice. *They* should never have voted, but should have deferred to "we" experts. This, though, assumes that the experts have good advice to offer. The Popperian tends to put his trust in social science, and suppose that our rational scientist has good advice to offer. Hayekeans are altogether more skeptical of the idea that experts, including economic experts, can provide reliable policy advice to achieve set goals such as economic growth and efficiency. As David M. Levy and Sandra M. Peart have recently argued, this model of expert policy relies on "experts being both trustworthy and effective."¹⁹ The rub is that the conclusions of experts are often deeply colored by self-interest, ideology and "confirmation bias" — as do the rest of us, they tend to put weight on evidence that supports their existing beliefs, their own prestige and, often enough, their ideology. For example, on November 1 the models of the noted pollster, Nate Silver, indicated that "Trump has many paths if the popular vote is within 2 points."²⁰ Ryan Grim responded in the *Huffington Post*:

"The models are pretty confident. HuffPost Pollster is giving Clinton a 98 percent chance of winning, and The New York Times' model at The Upshot puts her chances at 85 percent. There is one outlier, however, that is causing waves of panic among Democrats around the country, and injecting Trump backers with the hope that their guy might pull this thing off after all. Nate Silver's 538 model is giving Donald Trump a heart-stopping 35 percent chance of winning as of this weekend."²¹

Grim charged that Silver's results were obtained by "monkeying around with the numbers." Pollsters looked for explanations that fitted with their own model and overall ideological perspective, thus distorting their analysis of outlier predictions.

As pervasive as it is, such motivated reasoning is not, I think, the deepest problem. Fundamental skepticism of most claims to economic policy expertise arises from two fundamental features of thinking about economics. First, as mainstream economists are only just beginning to appreciate, economic systems made up of heterogeneous actors are complex, and complex systems are difficult to model and even more difficult to predict in any detail.²² The open society is, by definition, a large-scale, highly heterogeneous order in which overall outcomes are a result of innumerable decisions — these are the conditions

that give rise to complex systems, which make prediction extraordinarily difficult. To make things worse, experiments show that individuals — yes, even intelligent ones — overestimate their ability to accurately predict.²³ We probably are designed to store information about past events in simple causal narrative stories, which lead us to see the world as far more predictable than it is.²⁴ So we are immersed in a system in which medium-term predictions are excruciatingly hard, while easily convinced it is simpler than it is and overconfident in our ability to predict it. As Philip Tetlock showed in his famous study of economic prediction, when it comes to predicting the main macro-variables of an economy, someone who regularly reads *The New York Times* or *The Economist* does as well as the average experienced Ph.D. in economics.²⁵

Many economists, supported by their ideological popularizers, have marketed themselves as having a unique skill: translating a highly theoretical science into detailed and reliable policy advice. Too often they have developed a model that appears accurate for a while, and then the empirical evidence (such as it is) seems to undermine it — sometimes to be picked off the trash heap later when the model that displaced it has now failed (thus the rise in 1940s and ‘50s, fall in the ‘80s, and recent rebirth of Keynesian economics).²⁶ The instability and non-replicability of economic findings severely undermines claims to policy expertise.²⁷ Some economists hope that the dawning age of “big data” will usher in vastly improved testing and analytic techniques. But the fact remain that data is required to *test models*: no matter how big, data does not replace models, and current models of complex systems are poor predictors at the relatively fine-grained level needed for most policy guidance.²⁸

None of this implies that good predictions are not to be had, especially in simpler systems.²⁹ In his recent work Tetlock has sought to identify the (rather rare) traits that make for excellent predictors.³⁰ What does emerge from recent studies, though, is that the cognitive openness and self-critical traits that are required for good prediction are not common among economic policy analysts. Moreover, as the system becomes complex, even the best forecasters cannot accurately predict in the medium-range.³¹ Predictive expertise is certainly is not impossible, but it is far more difficult, and far less general, than we are apt to think.

Yet for generations, politicians backed up by their economic experts, have offered themselves to voters as economic engineers. They have claimed the ability to guide the

economy, and to solve its problems and secure citizens' futures. A large, complex order has been treated as a relatively simple, controllable, system. When things went well, politicians and their experts claimed credit; when things went south, they blamed someone else. Finally, they have all been blamed and depicted, not entirely unfairly, as charlatans. Given this, it is not shocking that the financial crisis of 2008 was for so many the last nail in the traditional experts' coffin. The crisis was (of course) unexpected by the economics profession, subsequent economic growth was non-existent to mediocre, incomes stagnated, and many young males (especially outside the great metropolitan areas), witnessed the world driving past them. Yet they had been repeatedly told by elites that all these problems could be fixed, if only the right people were in power. When traditional medicine constantly lets them down, people tend to grasp at straws and seek out "alternative medicine" — even more outrageous quacks.³² Thus new cure-alls are sold — and bought: the economy can be controlled so that relatively low-skilled workers in the United States can continue to earn the sort of high wages of the 1950s and '60s (when America was one of the only economies left standing), that Britain can maintain its current trading and financial patterns with the European Union while rejecting its basic policies, that the U.K. can be Singapore in the North Sea, that economic equality can be significantly advanced by taxing the very rich, that being tough with other countries will make America great, or that it should renegotiate its national debt.

It is not just "Them." Many "progressive," reasonable and humane people have succumbed to epistemic arrogance. Of the right or the left, they insist that they know the basis for successful economic engineering. They were, and remain, thoroughly convinced that they can manage society and the economy to promote cherished ends. And though such projects sometimes looked successful in the short term, they repeatedly failed in the medium term. The upshot has been a reduction in the intellectual capital of the open society, as claims to expertise have been brought into general disrepute, even where they are sound.

Of course an open society can reasonably pursue effective policies. Incomes can be supplemented, infrastructure built, people educated, policing made fair, CO₂ emissions lessened. And complex systems can be experimentally, marginally, predicted and improved.³³ These are important tasks. But the arrogance of the illusion of control is a danger, which we must constantly seek to mitigate. David Colander and Roland Kupers

argue that once we understand the complex nature of economic systems, we will appreciate that “policy is designed to play a supporting role in an evolving ecostructure — it is not designed to control the system.”³⁴ The open society provides the environment for the effective use of reason, but reason’s ability to control society is drastically more limited than most economists and their fans have realized. As Hayek warned, “It may indeed prove to be far the most difficult and not the least important task for human reason rationally to comprehend its own limitations.”³⁵

5. Law as the Enforcer of True Justice

On the sectarian understanding, the open society is publicly committed to rationality, scientific expertise and the victory of rational morality over traditional morality. And in America those favoring this view have looked to the law, and especially, the Supreme Court to further the last aim. When I was a lad, one of my (collective) heroes was the Warren Court. An early decision was the landmark and critical *Brown v. Board of Education of Topeka* (1954), holding that race-based segregation of public education violated the equal protection clause of the Fourteenth Amendment. The Court, especially in its last decade, started a rights revolution, leading the way in protecting the rights of citizens (including the accused). *Griswold v. Connecticut* (1965) divined within the United States Constitution a “penumbra” right to privacy that implied a constitutional right to practice birth control. The Court was on the side of personal freedom and equal rights, and by 1973 the right to privacy was extended to a woman’s right to abort a fetus. Half of the United States was ecstatic.

Like all subjects worth sustained study, history is complicated — thumbnail sketches miss much. Yet they often highlight something critical, and increase our understanding. There is much to say for a narrative stressing that by the late ‘60s opposition to the Warren Court was growing; a deep split as to the legitimacy of *Roe v. Wade* took root, infecting federal politics. A large proportion of the citizenry, concentrated in some regions, were told that the Constitution clashed with their deepest convictions — and yet they must defer to the Constitution. The majority pushed ahead — rational morality was, after all, triumphing over superstition. The effective failure of the Equal Rights Amendment was an indication that some regions of the country dissented from the rights revolution, but this was only seen

as a setback, not a warning. As the Senate and then finally the House were reliably won by Republicans, focus was on the Court as the expander of rights claims. By early in this century the Court was itself a thoroughly politicized institution, with ideological lines so clear that even the “common man” was surprised when there was not a 5-4 decision on a major case. Still, the hope of the advocates of the rights revolution was that the Court would still be on their side (actually, that a single decisive judge would come over to their side and determine federal law), as it was *Obergefell v. Hodges* in 2015, legalizing same-sex marriage. As long as they could get the Federal Government through the Court to expand and enforce rights, the advocates of the rights revolution were content to override “unenlightened conservative-religious opposition” in many states and Congress. When they woke up on November 9, 2016 the reality struck that all of the branches of the federal government were now (or soon would be) in the hands of that very opposition — and a nationalist, bigoted, president who rallied his followers to the tribal cause. It looked like it was now their turn to impose the closed society. What a long strange trip it’s been.

My early idolization of the Warren Court, which I saw as the protector of the open society, was misplaced. It expressed an enduring attitude hostile to the maintenance of the open society: the law can effectively establish basic rights without wide-ranging support in the population’s informal moral norms and their deep convictions about justice and the nature, and value, of life. We Warren Court enthusiasts saw quite correctly that the state must, absolutely, enforce the basic equal rights of citizens to participate in politics and civil society if there was to be a free society at all. But to us this seemed like just the first step.³⁶ (And we should recall that it was Congress that passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965). As the rights revolution proceeded it wandered further and further from the deep convictions of too many. Rights no longer articulated a general consensus on the meaning of citizenship, but a highly controversial vision of justice.

Legal theorists and social scientists have increasingly come to the conclusion that moral and cultural change cannot be enforced on a population who perceives those changes as violating informal moral norms, and their ideas about what is wrong and ungodly.³⁷ Many advocates of the rights revolution have assumed that the “progressive” law would shape lagging informal moral norms. To be sure, this can occur, but more often the informal norms shape the law and determine law-abidingness.³⁸ Laws that run counter to the moral norms of the populace are not only apt to be ineffective but, according to William J. Stuntz,

self-defeating: the very enactment of a controversial law that runs counter to moral norms often strengthens, not weakens, those norms:

“In the 1960s as today [2000], a substantial fraction of the population thought abortion evil, another substantial fraction thought it at worst a small wrong, and still another substantial fraction found itself torn. In the 1960s the first group had the law on its side; today the second group does. In each case the legal regime generated sympathetic cases for the losing side, cases that seemed to highlight the downside of the existing law — deaths from back-alley abortions then, borderline infanticides now. Those cases are sympathetic only because there is some constituency prone to feel sympathy; they cannot create opposition on their own. But given some base of opposition, the stories are bound to surface, and are bound to generate a reaction, because they deal with the sorts of heartrending events that would push fence-sitters in one direction or the other.”³⁹

The upshot is that the law sometimes strengthens the very norms it sought to displace. In 1995, 56% of Americans described themselves as pro-choice and 33% as pro-life; in 2016 this had changed to 47% pro-choice and 46% pro-life.⁴⁰ The moral view running counter to the law significantly increased, while the moral orientation favoring it significantly decreased. Even when the norm-opposing law is not straightforwardly self-defeating in this way, evidence from social science indicates that laws running against social and moral norms are typically ineffective in changing people’s behavior. Of course sometimes the force of state protection is sufficient, but even here the clash between norm and law very often brings the latter into disrepute, as it demands that many act contrary to what they sincerely believe is right, and what their neighbors expect of them.⁴¹ The law is an ineffective, and often destructive, mechanism for social change when a large proportion of the population morally opposes it.

“[W]hen manners and customs are to be changed,” Montesquieu observed, “it ought not to be done by laws; this would have too much the air of tyranny: it would be better to change them by introducing other manners and other customs.”⁴² While no doubt this fails as an iron-clad rule, it is a sound guiding principle. The rights revolution adamantly disagreed. To accept Montesquieu’s insight would be to accept that different regions have different moral norms that need to be accommodated, and perhaps gradually changed

through sustained persuasion and other mechanisms of norm change.⁴³ And this would have been to allow that different states and regions would adopt different laws regulating matters such as abortion. The rights revolution insisted on “true justice now!” regardless of the extent of the opposition. The effects were often not as anticipated. It is a plausible hypothesis indeed that the insistence on “justice now!” led to a *decrease* in those who thought it *was* justice, many of whom became deeply alienated from a system they once supported.

6. Sectarian Moralism

Underlying this aggressive use of the law to impose controversial rights on a half-unwilling nation, was an aggressive and self-righteous understanding of morality and justice, one certainly fueled by left-leaning professional philosophy. There have always been two strains in moral philosophy: one that sees morality as a social phenomenon, in which individuals come to share common rules of required and prohibited behavior based on implicit contracts, evolved conventions or shared forms of life (for example, Hobbes, Hume, Rousseau and Hegel) and those that uphold the individual moral consciousness, and its unconditional devotion to what it perceives as the truth about morality (e.g., Butler, and most interpretations of Kant).

On the former view the basic ethical rules of society have an ineliminable social dimension — they are the rules that *we* have constructed or discovered to live together, given *our* problems and aims. This view of a distinctly social morality became prominent among the liberal social contract theorists of the seventeenth and eighteenth centuries, who understood that because European society was riven with conscientious religious and moral conflict, no specific controversial doctrine could be the ground of public morality.⁴⁴ The very attempt to impose any such vision of justice and morality on the entire society was sure to produce conflict and instability. In the 1950s and early ‘60s the idea of a “social morality” was still well represented in Anglo-American ethics, advocated by leading philosophers such as P. F. Strawson in England, and Kurt Baier in the U.S. (and before that, in Australia).⁴⁵

And then something odd happened. At first, in 1971 it seemed that this social, accommodative to disagreement, view of morality and justice won out in America. That

year John Rawls published the greatest work in twentieth century political philosophy, *A Theory of Justice*.⁴⁶ Rawls reintroduced the idea of social justice as based on a model of a fair social contract among diverse views, reinterpreting the great social contract theories of Locke, Rousseau and (an interpretation of) Kant. But rather than moral and political philosophy taking up Rawls's idea that justice was based on what all reasonable persons in a society could endorse, the general take-home message was stunning: Rawls had identified the true principles of social justice, which showed America to be a deeply unjust society that needed to be radically reformed. From that moment on, Anglo-American, and especially American, political philosophy became obsessed with articulating the true principles of social justice, and they multiplied at an astounding rate: a plethora of egalitarianisms (resource, welfare, capability), "sufficientarianism," "prioritarianism," desert, need, natural-rights libertarianism, "left libertarianism," and on and on. It was not simply that each of these perspectives saw themselves as advancing moral insights, but each was convinced that it had discovered *the* truth about ethics and justice and those who opposed these conclusions were immoral. Those who grasped the truth thus had the responsibility to enshrine it in legislation. Not, of course, *because* it was their vision (that would be arrogant!), but because they had the correct vision, while those of others were erroneous (which, apparently, was not arrogant).

Thus the apparent victory in 1971 for the social view of ethics became a victory for the individualistic view: viz. that ethical inquiry is focused on ethical truths, a lone inquirer can discover these truths, and those who have grasped the truth about morality have the responsibility to impose it on others who are too benighted to see it. Rawls, despite his explicit invocation of a social contract, was thus typically interpreted as articulating true moral intuitions about social justice. But the story gets odder still. In his later work Rawls became increasingly convinced of the importance of religious and moral disagreement in America, and explicitly sought to develop a view of liberalism — which he deemed "political liberalism" — that adamantly rejected any claim to moral truth, and was presented as a political accommodation that a wide variety of reasonable, diverse, perspectives could embrace.⁴⁷ At this point many of his followers howled that we simply could not do without an appeal to moral truth, and sought feverishly to find it *somewhere* in Rawls's work, or at least insist that some such notion had to be imported. Alternatively, other followers appeared to embrace the insight that political philosophy must

accommodate “reasonable disagreement,” but then immediately reneged on this promise, defining the reasonable so that, essentially, the large part of the population who opposed the direction of the rights revolution were classified as unreasonable. By a slight of hand, it was “shown” that all reasonable people supported these controversial measures and thus, after all, disagreement was accommodated.

Despite the prominence and promise of Rawls’s political philosophy, it failed to produce a political philosophy suited to a non-sectarian open society, one that seeks basic rules for social and political life that not only can be endorsed given the widely diverse perspectives in our society, but understands how this diversity might be harnessed to promote mutual benefit. Instead, the contract apparatus was pressed in the service of moral self-righteousness, buttressing highly controversial convictions about justice, and why the state should be pressed into their service. Even for Rawls, the Supreme Court was the true voice of public reason, and so the deliberations of these nine jurists were to be taken as preeminent in proclaiming political morality for Americans.⁴⁸ Political philosophy sought to vindicate the rights revolution. Moral and political philosophy overwhelmingly degenerated into a sectarian, ideological project, dismissing religion as superstition, traditional norms as bigoted and oppressive.

A moral and political philosophy truly suited to the defense of the open society does not begin by supposing a correct perspective on justice, but takes as its foundational insight that the admissible perspectives are many and varied. The aim is not to vindicate a specific, or even a narrow family, of perspectives, but to understand the conditions under which diverse perspectives on justice, morality and religion can share a moral and political framework that participants can understand as consistent with their deepest convictions, and which all can see as beneficial. In such a society we must accept that few, if any, will see their society as perfectly or ideally just, but the overwhelming number can deem it sufficiently just in light of their own perspectives, and sufficiently accommodative to their deepest beliefs. And so loyalty to the open society can be recovered. The work on this project has barely begun.⁴⁹

7. Fighting Evolution with Evolution

We are groupish creatures. There is little doubt that we are evolutionarily-primed to ethnic — and by a heuristic-based extension, racial — categorizations, such as have been so

prominent in this *annus horribilis*.⁵⁰ Once Haidt’s “hive switch” is thrown and we take up the “Us not Them” perspective, the open society becomes an enemy. Originally, our tribal nature was probably closely associated with social norms: it was important to know who was one of Us, so that one knew what norms and behaviors to comply with — ours, not the outsiders.⁵¹ Norms and tribalism went hand-in-hand. But then social evolution resulted in a surprising twist: our ability to be guided by norms allowed us to escape the tribal society, and coordinate our activities — now with strangers — through impersonal rules.⁵² Following moral norms is deeply ingrained in us, and essentially automatic once we have internalized a norm.⁵³ When the basic cooperative norms of the open society are widely accepted our natural, evolved, norm-following nature draws us out of the tribal view. If, however, all we have as a counterweight to the attraction of tribalism is secularism, economic rationalism, sectarian moralism and its embodiment in the law, the prospects for the open society are dim. Indeed, the reaction to these can enhance the attraction of the closed society. The open society needs a better and stronger friend, rooted as deeply in our nature as its enemy, and pulling us to moral rules securing beneficial cooperation with strangers on terms that secure our most basic values and convictions.

Notes and References

¹ Famously in the *The Open Society and its Enemies*, fourth edn., two vols. (London: Routledge and Kegan Paul, 1962). The term was also used by F. A. Hayek, *Rules and Order* (Chicago: University of Chicago Press, 1973), p. 2., though he preferred the “Great Society.”

² Popper, *The Open Society and its Enemies*, vol. I, p. 1.

³ See Samuel Bowles and Herbert Gintis, *A Cooperative Species: Human Reciprocity and its Evolution* (Princeton: Princeton University Press, 2011); Jonathan Haidt, *The Righteous Mind: Why Good People are Divided by Politics and Religion* (New York: Pantheon, 2012), chap. 9.

⁴ The classic study here is Henri Tajfel, M. G. Billig, R. P. Bundy and Calude Flament, “Social Categorization and Intergroup Behavior,” *European Journal of Social Psychology*, vol. 1 (1971): 149-78. See also Joshua Greene, *Moral Tribes: Emotion, Reason, and the Gap Between Them and Us* (New York: Penguin, 2013), pp. 48-55.

⁵ Robert Boyd and Peter Richerson, “The Evolution of Ethnic Markers” in their *The Origin and Evolution of Cultures* (New York: Oxford University Press, 2005), pp. 103-117.

⁶ Greene, *Moral Tribes*, pp. 54-5.

⁷ Joseph Henrich, *The Secret of Our Success: A Cultural and Evolutionary Explanation* (Princeton: Princeton University Press, 2016), pp. 206ff.

⁸ Haidt, *The Righteous Mind*, chap. 10.

⁹ See *Second Reading: The House of Commons Library Blog*, “Brexit: national identity and ethnicity in the referendum – UK Parliament” at <https://secondreading.uk/elections/brexit-national-identity-and-ethnicity-in-the-referendum/>

¹⁰ On political knowledge, see Philip E. Converse, “The Nature of Belief Systems in Mass Publics,” *Critical Review*, vol. 18 (1977): 1-74. On economics see Bryan Caplan, *The Myth of the Rational Voter: Why Democracies Choose Bad Policies* (Princeton: Princeton University Press, 2007). On general reasoning see Deanna Kuhn, *The Skills of Argument* (Cambridge: Cambridge University Press, 1991) and the essays in Daniel Kahneman, Paul Slovic and Amos Tversky, eds., *Judgment Under Uncertainty: Heuristics and Biases* (Cambridge: Cambridge University Press, 1982) and Daniel Kahneman, *Thinking Fast and Slow* (New York: Farrar, Straus and Giroux, 2011).

¹¹ John Stuart Mill, *Considerations on Representative Government* in *The Collected Works of John Stuart Mill*, edited by J. M. Robson (Toronto: University of Toronto Press, 1977) vol. 19, p. 448.

¹² See, e.g., on politics, Benjamin I. Page and Robert Y. Shapiro. *The Rational Public: Fifty Years of Trends on Americans’ Policy Preferences* (Chicago: University of Chicago Press, 1992); James Surowiecki, *The Wisdom of Crowds* (New York: Anchor Books, 2005). On economics, Gerald Gaus, “Is the Public Incompetent? Compared to Whom? About What?” *Critical Review: A Journal of Politics and Society*, vol. 20 (2009): 291-311. On reasoning in general, Hugo Mercier and Dan Sperber, “Why do Humans Reason? Arguments for an Argumentative Theory,” *Behavioral and Brain Sciences*, vol. 34 (2011): 57-74.

¹³ See Scott E. Page, *The Difference* (Princeton: Princeton University Press, 2007).

¹⁴ See David M. Levy and Sandra J. Peart, *Escape from Democracy: The Role of Experts and the Public in Economic Policy* (Cambridge: Cambridge University Press 2017), chap. 5; Desmond King, *In the Name of Liberalism: Illiberal Social Policy in the USA and Britain* (Oxford: Oxford University Press, 1999), chap. 3.

¹⁵ One method to evaluate them is through Brier scores, which, essentially, penalize for high probability predictions that do not eventuate. See Philip E. Tetlock and Dan Gardner *Superforecasting: The Art and Science of Prediction* (New York: Crown Publications, 2015), pp. 64ff.

¹⁶ John Llewellyn, “The Experts Whose Forecasts Help Us Shape Our Lives,” *Financial Times*, Saturday, December 16, 2016.

¹⁷ Nassim Nicholas Taleb, *The Black Swan: The Impact of the Highly Improbable* (New York: Random House, 2007), p. 138.

¹⁸ *Financial Times*, June 13, 2016. For an expert reply, see Llewellyn, “The Experts Whose Forecasts Help Us Shape Our Lives.”

¹⁹ Levy and Peart, *Escape from Democracy*, chap. 1.

²⁰ Nate Silver, “Election Update: Yes, Donald Trump Has A Path To Victory (If the race tightens any further, Clinton’s electoral edge is fragile), *FiveThirtyEight*, November 1, 2016 <http://fivethirtyeight.com/features/election-update-yes-donald-trump-has-a-path-to-victory/> My thanks to Guillaume Attia for advice on this point.

²¹ Ryan Grim, “Nate Silver Is Unskewing Polls — All of Them — In Trump’s Direction,” *The Huffington Post*, November 5, 2016 <http://www.huffingtonpost.com/entry/nate-silver-election-forecast_us_581e1c33e4b0d9ce6fbc6f7f>

²² Hayek is reported to have quipped that he knew of few people who made money acting on economic forecasts, but many who had made money by selling them. For a critical evaluation of financial models, see Taleb, *The Black Swan*. Reporting the work of Nachi Gupta, Neil Johnson writes: “financial markets are neither continually predictable nor unpredictable, but instead show periods where they are predictable and periods in which they are not (i.e., random).” *Simply Complexity* (London: Oneworld, 2009). See also Sunny Y. Auyand, *Foundations of Complex-systems Theories in Economics, Evolutionary Biology and Statistical Physics* (Cambridge: Cambridge University Press. 1998).

²³ See Daniel Kahneman and Amos Tversky, “On the Psychology of Prediction” in *Judgment Under Uncertainty: Heuristics and Biases* chap. 4. See also the essays in Part IV of the volume.

²⁴ Taleb, *The Black Swan*, pp. 8ff, 137ff.

²⁵ Philip Tetlock, *Expert Political Judgment: How Good Is It? How Can We Know?* (Princeton: University of Princeton Press, 2005), chap. 2.

²⁶ See Robert S. Goldfarb, “Now You See it, Now You Don’t: Emerging Contrary Results in Economics,” *Journal of Economic Methodology*, vol. 4 (1997): 221–244; Robert S. Goldfarb and H. O. Stekler, “Why Do Empirical Results Change? Forecasts as Tests of Rational

Expectations,” *History of Political Economy*, vol. 32 (2000), No. Suppl. 1: 95-116.; Roger E. Backhouse, *Truth and Progress in Economics* (Cheltenham, UK: Edward Elgar, 1997), chap. 14; Pedro N. Teixeira, “Great Expectations, Mixed Results and Resilient Beliefs: The Troubles of Empirical Research in Economic Controversies,” *Journal of Economic Methodology*, vol. 14 (September 2007): 291–309.

²⁷ See Levy and Peart, *Escape from Democracy*, esp. chap. 1.

²⁸ Liran Einav and Jonathan Levin, “Economics in the Age of Big Data,” *Science*, vol. 346 (6210, November 2014). A good example is predictions about NAFTA. At the time a number of the best models were combined, and yet the predictions were not good. This is not to say that economists give up. See Serge Shikher, “Predicting the Effects of NAFTA: Now We Can Do It Better!” *Journal of International and Global Economic Studies*, vol. 5 (December 2012): 32-59.

²⁹ Such as the human body, which is far simpler than an economic system. Experts (such as Llewellyn, “The Experts Whose Forecasts Help Us Shape Our Lives”) sometimes use medical prediction as a model for economics, but in most cases this is to conflate problem of vastly different degrees of complexity. On the degree of complexity in even simple economic problems, see Donald Sarri, “Mathematical Complexity of Simple Economics,” *Notices of the AMA*, vol. 42 (1995), no. 2: 222–231.

³⁰ Tetlock and Gardner *Superforecasting*.

³¹ *Ibid.*, pp. 4ff.

³² Compare the discussion in Tetlock and Gardner, *Superforecasting*, chap. 2.

³³ See my *The Tranny of the Ideal* (Princeton: Princeton University Press, 2016).

³⁴ *Complexity and the Art of Public Policy: Solving Society's Problems from the Bottom Up* (Princeton: Princeton University Press, 2014), p. 10.

³⁵ F. A. Hayek, *The Counter-Revolution of Science* (Indianapolis: Liberty Fund, 1979), p. 162. Hayek saw this more clearly than Popper, which is the root of their different views of the open society. Cf. *The Open Society and its Enemies*, vol. 1, pp. 285-6. But cf. Popper’s “Of Clouds and Clocks” in his *Objective Knowledge: An Evolutionary Approach* (Oxford: Oxford University Press, 1972): 206-55.

³⁶ See John Hart Ely, *Democracy and Distrust: A Theory of Judicial Review* (Cambridge, MA: Harvard University Press, 1980). See also my *Justificatory Liberalism* (New York: Oxford University Press, 1996), chap. 16.

³⁷ Jean-Philippe Platteau, *Institutions, Social Norms and Economic Development* (Amsterdam: Harwood Academic Publishers, 2000), pp. 290ff.

³⁸ Baron De Montesquieu, *The Spirit of the Laws*, translated by Franz Neumann (New York: Hafner Press, 1949), pp. 304-5. See also Paul Robinson, “Why Does the Criminal Law Care What the Layperson Thinks Is Just? Coercive versus Normative Crime Control.” *Virginia Law Review*, vol. 86 (2000): 1839-1869.

³⁹ William J. Stuntz, “Self-Defeating Crimes,” *Virginia Law Review*, vol. 86 (2000): 1871-1899 at p. 1888.

⁴⁰ This was the result after respondents were asked about whether abortion should be legal. When the question was asked in isolation, the 1995 results were 56% pro-choice, 37% pro-life; in 2015, 49% pro-choice, 44% pro-life. <http://www.gallup.com/poll/1576/abortion.aspx>.

⁴¹ On the importance of the normative expectations of others, see Cristiana Bicchieri, *The Grammar of Society* (Cambridge: Cambridge University Press, 2006). On the importance of the convergence of citizen's normative beliefs with legal regulation, see Tom R. Tyler, *Why People Obey the Law* (New Haven: Yale University Press, 1990).

⁴² Montesquieu, *The Spirit of the Laws*, p. 289. See also Gerry Mackie, "Effective Rule of Law Requires Construction of a Social Norm of Legal Obedience" in Carlo Tognato, *Cultural Agents Reloaded: The Legacy of Antanas Mockus* (Cambridge, MA: The Cultural Agents Initiative at Harvard University, 2017); Cristina Bicchieri, *Norms in the Wild* (Oxford: Oxford University Press, 2016).

⁴³ These are explored by Bicchieri in her *Norms in the Wild*.

⁴⁴ I expand on this idea in my essay on "Public Reason Liberalism" in *The Cambridge Companion to Liberalism*, edited by Steven Wall (Cambridge: Cambridge University Press, 2015), pp. 112-40.

⁴⁵ "Social Morality and Individual Ideal," *Philosophy*, vol. 36 (1961): 1-17; Kurt Baier, *The Moral Point of View: A Rational Basis for Ethics* (Ithaca, NY: Cornell University Press, 1958). David Gauthier upheld it in the 1980s. See his *Morals by Agreement* (Oxford: Clarendon Press, 1986), p. 269.

⁴⁶ Harvard University Press.

⁴⁷ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993). Rawls rejected the appeal to moral truth in his presidential address to the American Philosophical Association. See his "The Independence of Moral Theory" in *John Rawls: Collected Papers*, edited by Samuel Freeman. (Cambridge, MA: Harvard University Press, 1999), pp. 286-302.

⁴⁸ Rawls, *Political Liberalism*, pp. 231-40.

⁴⁹ For recent, important, contributions, see Ryan Muldoon, *Social Contract Theory for a Diverse World: Beyond Tolerance* (New York: Routledge, 2016); Kevin Vallier, *Liberal Politics and Public Faith: Beyond Separation* (New York: Routledge, 2014). See also my *The Order of Public Reason* (Cambridge: Cambridge University Press, 2011).

⁵⁰ Henrich, *The Secret of Our Success*, p. 204.

⁵¹ Ibid.

⁵² See my essay, "The Egalitarian Species." *Social Philosophy and Policy*, vol. 31 (2015): 1-27.

⁵³ Henrich, *The Secret of Our Success*, p. 196.