

## The Family and Civic Life

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My remarks touch upon a chapter in the founding of the American republic and the implications for contemporary life under regimes of justice. This subject is vast and complex, and I can offer no more than a sketch of the main points. I should say that, although I focus on the past, the history of the American founding is never too far removed from contemporary concerns. It is, after all, the very nature of government, by law, that historical precedents and historical reasoning serve to guide and judge the shifting enthusiasms of party and politics. My argument applies only to republics and would be invalid if offered as an outline for radically different forms of political organization. In this way, I walk in the steps of Montesquieu whose the *Spirit of the Laws* was widely read and admired by the American founders.

In the second chapter of this work, Montesquieu considers the forms of education most needed for life within a civic society. Education here should be understood in the broadest terms—not merely what takes place in the school room or even in the parlor, but what imposes itself on the thoughts and actions of the young in their most malleable stages of development, education in the ancient Greek sense of *paideia*. Montesquieu examines the relationship between education and those principles of governance under which one must then live. For Montesquieu, all the varieties of government settle into one of three broad categories: tyrannies, monarchies, or republics. He explains that each of these calls for subjects or citizens who have acquired the right sort of disposition. (Note that monarchies committed to the collective purposes of those who have consented to be thus governed are, themselves, republics in all but name.) Thus, those who would be groomed for life within a monarchy, he says, must be educated in honor; those who would live under despots and tyrants are to be educated in fear; whereas those who would be citizens of republics must be educated in virtue.

The reasoning behind these conclusions was perhaps better and more widely understood in the eighteenth century than today, but it is not so distant as to be inaccessible. Consider first what Montesquieu calls “the school of honor.” As with all schools, this one is very much in the world. But in the school of honor, one acquires those virtues designed more to ennoble oneself than to serve others—virtue here is an external mark of distinction, something that sets one apart from the group. A man of honor will readily accept a humbling comparison with the greatness of the king in return for the borrowed greatness conferred by kingly companionship.

The true nobleman is strongly bound to terms of the code of honor, even when these are not in any sense statutory.

Tyrannies change all this. Under despotic regimes the ruled are educated in fear. Montesquieu describes this process as “making a bad subject in order to make a good slave” (Book IV, Chapter V). In this same section he offers his famous conclusion that “every tyrant is at the same time a slave.” The despot has been cut off from that exercise of deliberation and discourse by which the mind rises to a state of power and independence. In the absence of accountability, the power of critical inquiry is diminished. Willfulness feeds on itself, at the utter expense of those who might otherwise participate as citizens within a worthy polis. Indeed, even the really good citizen who somehow does rise to the surface will ultimately expose both himself and the regime to ruin, for it is a regime he must work to destroy at his own peril.

Montesquieu’s discussion of education for life within a republic most influenced the American founders and supported what has been called “conservative communitarianism” (Shain 1995). Within a republican form of government, he says, “The whole power of education is required.” This is because it is education in virtue, which entails self-renunciation. He elaborates, “This virtue may be defined as the love of the laws and of our country. As such love requires a constant preference of public to private interest, it is the source of all private virtues; for they are nothing more than this very preference itself” (I, IV, 5, pp. 36–37).

The whole power of education must be devoted to cultivating a preference for what is good at large—a principled aversion to what is mean and in opposition to the general welfare. Aristotle identified lawgivers as those who make citizens good by training them in the habits of right action, going so far as to declare, “this is the aim of all legislation . . . to men *BoulEma pantos nomothetou tout estin*” (*Ethic, Nic 1103b 5*).

Montesquieu was persuaded that the love of laws and of country is not only peculiar to democracies but is necessary to their survival. The purpose of education, civic education, must be developing a love, a bond of genuinely friendly affection, that commits the individual to the good of the whole. Echoing ancient wisdom, Montesquieu concludes that such an education is transmitted chiefly by elders and by parental example, noting: “It is not the young people that degenerate; they are not spoiled till those of maturer age are already sunk into corruption” (I, IV, 5).

As the American founders agreed, life within a republic calls for education in virtue. In this truism is first the notion of a republic, and then the notion that there is a form of life within it that aspires to be virtuous. Not just any type of association yields a republic. It would be an abuse of language to refer to “a republic of ‘mafians’” or “the pirates’ republic.”

The defining characteristic of associations within a *bona fide* republic is that they are principled, the characteristic that makes them voluntary in the first place. Republics are not the accidental consequence of unexamined traditions, but the most refined and fully intended expression of our essentially political nature. They are brought into being by deliberation and, as such, they are the precious gift of the rational side of human nature. Their purpose is at once collective and individuated. Were it otherwise, the form of government would be despotic or autocratic or monarchial in the sense of an absolute monarchy.

To describe associations within republics as principled is to refer not only to the association between the people and the state but to the associations established among the people themselves. I should like to consider this within the context of an easily misunderstood claim advanced by Aristotle in his *Politics*, where he states that the polis precedes both the family or household (*oikia*) and the individual (1253a 19–20). His claim seems counterintuitive, until one reflects on the essential nature of family and of persons. Consider that “family” may refer to nothing more or less than entities sharing some number of genes in common, drawn from an identifiable breeding pool. Understood this way, it would be impossible to distinguish between human clans and beehives. It would be impossible for an adopted child to have membership in any family except the one he or she lost in infancy. Moreover, from a mere genetic relationship, nothing of moral consequence would follow. One day it may be possible to clone a person and then have the clone develop on another planet. Surely the contingent fact of genetic identity would not establish moral or political ties between the source and the clone.

Family understood, however, as a pattern of duties and obligations attached to parents, to children, to brothers and sisters—to the momentum supplied by the deeds of one’s ancestors—presupposes an irreducibly political form of social life. It presupposes a form of society having the rational and moral resources to establish and promulgate just patterns of duties and obligations, the resources needed to transform the biological fact of parentage into the essentially civic office of parent.

And what, then, of the individual? Aristotle surely did not make the preposterous claim that there were no human beings until there was a political community; he was not suggesting that genetically-related human beings begin to live together only after the creation of a polis. Rather, he recorded

the ambiguous and marginal standing of the most pathetic creature Homer could find within his fertile imagination—the lawless, stateless, heartless man. Once one is no longer a neighbor, citizen, son or daughter, wife or husband, father or mother, soldier or statesman—once one has no civic or familial identity—what is left, except some unrealized potentiality for a personhood? One obtains those offices that constitute distinct persons, distinct personalities within the polis. One’s character, no matter how promising at the outset, must become diminished, degraded, and woefully and dangerously incomplete within a corrupt regime. If the aim of all legislation is to make humans good by training them in the habits of right action, then the aim of the polis itself is educational, its aim and purpose must be to foster and facilitate civic education—education in virtue—by which one’s full humanity is realized.

If this all refers to the principled basis on which citizens relate to the polis, then on what basis do citizens relate to each other? The question resolves itself in an inquiry into the nature of friendship. Montesquieu claims that citizens within a republic love the government because it is theirs. Aristotle explains that citizens are faithful to the government because through it they can fully realize their humanity—rendering the life of a rational being ever more rational, ever more flourishing, and ever more virtuous. Ultimately the two thinkers advocate an affectionate bond of friendship—the most voluntary of voluntary associations, the form of association to which one can be held fully accountable. Thus, Montesquieu and Aristotle, two millennia apart, have arrived at the same place.

Continuing hostility between the family and the state must lead to the destruction of both; in the absence of the polis, families degenerate into tribal enclaves. But, the survival of the polis is not the ultimate goal of family life. Rather, both the family and the polis strive to lead citizens toward flourishing, productive, and meaningful lives. What both have in common is a species of friendship as an enduring bond of association. To make this clear, I must consider one of the most celebrated treatments of friendship ever—one developed by Aristotle in his ethical writings.

Friendship, Aristotle observes, is common throughout the animal kingdom, but it is especially prevalent among human beings. It provides the binding force for the polis itself (1155a 23–24). He states that lawgivers place a higher premium on friendship than on justice itself, because friendship is at the foundation of the unity of purpose that the law promotes. He declares that the highest form of justice—*On dikaiOn to malista*—seems possessed of a friendly feeling, *philikon* (1155a 28).

What excites such strong affection? Aristotle identifies three possible human attributes that give rise to feelings of affection or love. These are the good (*to agathon*), the pleasant (*E Edus*), and the useful (*E chrEsimos*). Friendships form when

partners have good feelings for each other. These sentiments arise from some combination of the good, pleasant, or useful. However, these different groundings of friendship yield friendships of a quite different character. The friendship started solely for the pleasure excited in establishing a relationship can only last as long as the pleasure itself. Similarly, the friendship based on usefulness must weaken as gains are lessened and disappear. Such friendships are not based on anything intrinsic to the partners, but only on what associations will add to one's own life. Self-regard directs these friendships and will easily redirect them to more promising candidates.

Recalling Montesquieu's identification of republican virtue with the strong "preference of public to private interest," we see how incompatible self-regarding friendships are with those associations upon which republics most decidedly depend. If the republic is an association of friends, its health and endurance are jeopardized by transitory and selfish civic attachments. Considerations of pleasure and utility are of this stripe. Pleasure and usefulness run their course, and their impermanence renders unstable all that depends on them. These friendships, says Aristotle, "are based on an accident . . . [and] are easily broken off, in the event of the parties themselves changing, for if no longer pleasant or useful to each other, they cease to love each other" (1156a 15–28).

Aristotle recognizes that any number of psychological and contextual factors draw persons to one or another form of friendship. In youth, which is governed by the emotions, the chief impulse of friendship is pleasure, and as tastes for pleasure are quite fickle at this stage of life, friendships are entered into and broken quickly; often, he says, before the day is out! In old age, when persons are inclined to pursue profit more than pleasure, the grounds of friendship tend to be utilitarian and survive even where there is not much by way of a mutual liking. But, there is that rare foundation of friendship, established only by those who are essentially equal in their virtue and goodness. This is, says Aristotle, perfected friendship (*Teleia philia*). Those who are joined in this rare form of friendship:

[W]ish each alike the other's good in respect of their goodness, and they are good in themselves; but it is those who wish the good of their friends for their friends' sake who are friends in the fullest sense, since they love each other for themselves and not accidentally. Hence the friendship of these lasts as long as they continue to be good, and virtue is a permanent quality (1156b 10–15).

Although Aristotle, no less than we, appreciates that mature friendship cannot be obtained between adults and infants or young children, it is clear that the spirit of friendship is what animates the actions of the good parent. A good parent wants for the young what is good for them. This, of

course, is different from wanting for them what they, in their innocence and ignorance, might want for themselves. It is also different from wanting for them what merely adds to our self-regarding pleasures. In a true friendship, the true friend offers what the other needs.

Now, if this all seems "ancient" and "Aristotelian," we should remind ourselves that this rationale was incorporated into the major founding documents of the American republic. Both Virginia and Massachusetts adopted bills of rights before there was the constitution. In Virginia, a Declaration of Rights was adopted on 15 May 1776, less than two months before the signing of the Declaration of Independence. Granting in section 1, "That all men are by nature equally free and independent and have certain inherent rights. . . .", the Virginia declaration goes on to proclaim in section 15:

That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles (In Commager and Morris. eds., *The Spirit of 'Seventy-Six*, New York: Harper & Row, 1958).

Similarly, the 1780 Massachusetts Bill of Rights affirms the natural equality of all, each possessing "certain natural, essential, and unalienable rights," and shortly thereafter adds that "the happiness of the people and the good order and preservation of civil government essentially depend on piety, religion, and morality. . . ." The Massachusetts bill goes even further, insisting that, "these cannot be generally diffused through a community but by the institution of public worship of God and of public instructions in piety, religion, and morality" (Commager & Morris, op. cit.).

In article XVIII of the Massachusetts Bill of Rights, we find not only an affirmation of these precepts but the insistence that they be uppermost in the selection of officers of state:

A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives, and they have a right to require of their lawgivers and magistrates an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of the commonwealth . . . (*Ibid*).

Note, then, that the values essential to the development of the person are the same as those that Massachusetts would incorporate into law. Nothing in the subsequent deliberations leading to the U.S. Constitution was at variance with these conceptions of government and citizenship. The purpose of

government is to secure the happiness of the governed, but this very happiness depends centrally and essentially on a civic life that is moderate, just, and pious. The government most assuredly should not impose religious orthodoxies, but equally assuredly it should respect those principles upon which its authority depends—the orthodoxies by which a rational being surrenders his or herself to justice and the moral dictates of conscience.

The Massachusetts bill speaks of what is “necessary to preserve the advantages of liberty,” clarifying that liberty is regarded in instrumental terms. It is good because it generates what is good. It is good when it grounds the life rightly lived. What is generally evident in these two foundational bills of rights is the recognition—now nearly lost to memory—that political rights are actually forms of empowerment that generate civic duties. Properly understood, what we claim as rights are protections occasioned by our vulnerabilities. What we take to be duties are constraints occasioned by our powers. This neglected fact leads to important if surprising consequences. As duties arise from our powers, they are enlarged with each enlargement of our powers.

Because of the manner in which these enlarged powers are deployed one may continue to have a valid claim on them. What we mean by “an abuse of power” is precisely the deployment of power in a manner at variance with its very purposes. Thus, no one can validly claim to have a “right” to do wrong.

There is no relationship—not even that between master and slave—in which the powers of one party can exploit the vulnerabilities of the other as completely as the relationship between parent and child. In a just and caring regime—a regime in which the ultimate purposes of law are not unlike those that bind virtuous friends—such vulnerabilities are the wellsprings of legally conferred rights. Children have the right to be cared for, guided, protected, nurtured, and molded into citizens committed to justice and fairness. They are not “possessions” to be used, abused, or destroyed according to the whims of their owners. If they are to be created only to be killed, or raised in contexts that place them at moral risk, it cannot be by the “rights” of those who have but do not own them. The state has duties proportioned to its powers. But, the laws of the state incline where they would not ruthlessly determine. As these laws pertain to the family, they must incline parents toward virtue, the proper use of parental power, and a daily recognition that the fate of nations depends on what elders do to and for the young. None of this is to be held hostage to some specious “privacy right” advanced by those who reject any claims that civic duty would attach to their liberties. The ultimate privacy is enjoyed only by that “lawless, stateless, hearthless” figure in Homer, who Aristotle would describe as one either rising above humanity or sinking below it.

## NOTES

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