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The Anatomy of Antiliberalism

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THE ANATOMY OF ANTILIBERALISM. By *Stephen Holmes*. Cambridge: Harvard University Press. 1993. Pp. xvi, 330. \$29.95.

Stephen Holmes¹ has recently published an engaging and stimulating, though finally unsatisfying, book. At a time when modern liberalism is being assailed seemingly from all sides — by fundamentalist Christians, conservative libertarians, critical race and feminist legal scholars, and communitarian political scholars — Holmes endeavors in *The Anatomy of Antiliberalism* to defend the faith from attack by a discrete and somewhat nonobvious group of theorists. The book purports to weave the works of thinkers as diverse as Joseph de Maistre and Roberto Unger into a coherent tradition of “antiliberalism” and, in so doing, to correct the oft-repeated errors of both historiography and interpretation that run through this tradition.

That he is only partly successful in these aims reflects more on his taxonomic choices than his substantive analysis. The book is at the same time over- and underinclusive. First, it is not at all clear that Holmes has, in fact, identified a tradition of antiliberalism that is more substantial than the extremely broad definition of *antiliberal* he constructs to encompass the variety of views he highlights; hence the theory is overinclusive. Second, it is underinclusive in that even if the profascism of Carl Schmitt and the communitarianism of Michael Sandel can be considered part of a unitary tradition — without stripping such a tradition of normative weight — Holmes has neglected to address adequately the salience that the communitarian critique, especially in legal contexts, has for liberalism.

Because he is writing about an opposition theory, Holmes begins with a thumbnail sketch of the liberal tradition. Somewhat disappointingly,² he defines liberalism as “a political theory and program that flourished from the middle of the seventeenth to the middle of the nineteenth century” and “continues to be a living tradition today” (p. 3). More specifically, he identifies the core practices of liberalism as religious toleration, freedom of expression, constraint on state action against the individual, broad franchise, constitutional government, and commitment to private property and freedom of contract (pp. 3-4). Four broad core norms in turn support these practices: personal security, impartiality, individual liberty, and democracy (p. 4).

Holmes then offers an overview of the tenets of non-Marxist an-

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2. This is disappointing because it allows Holmes to narrow the ground of legitimate criticism on the antiliberal side. Thus if an antiliberal criticizes an aspect of modern liberal practice, Holmes is able to answer with a defense of nineteenth-century liberal theory.

tiliberalism.³ Warning his readers that antiliberalism is “always a sensibility as well as an argument” (p. 5), Holmes sets forth the common attitudes he identifies in the antiliberal mind. Antiberals decry atomization and the alienation implicit in rational self-interest (p. 6). They distrust science and technology and the Enlightenment usurpation of religious morality by secular humanism (p. 6). They are hostile to the culture of modernity and tend to conflate the theory of liberalism with the practice of liberal states (p. 6). Moreover, they are apocalyptic: society, at whatever time they write, is in a “crisis” that it can overcome only by eradicating the “virus” of liberalism (p. 7). Additionally, one might add that antiberals systematically decontextualize liberal theory, thus positing as descriptive claims what are clearly normative aspirations.⁴

Holmes structures the book simply. Part I analyzes a series of representative antibereral thinkers. Part II refutes the standard historical account of liberalism offered by these theorists and attempts thereby to deepen our understanding of the liberal tradition. Holmes makes an initial distinction in Part I between “hardline” and “softline” antibererals (p. 88). He devotes the first portion of Part I to the former: Joseph de Maistre, Carl Schmitt, and Leo Strauss. The remaining bulk of Part I addresses the latter: Alasdair MacIntyre, Christopher Lasch, Roberto Unger, and the communitarianism associated with Charles Taylor and Robert Bellah. Apart from the substantive distinction between these two groups, the differentiation tracks historical chronology in an acknowledged way: hardline antibererals all antedate the Nazi regime.⁵ Holmes employs similar methods in dissecting each of his antibererals: he points out their internal inconsistencies, their reliance on empirically untrue factual assertions, and their misreading of liberal theory. The method not only serves to keep the reader’s attention focused on the similarities among the samples, but it reinforces the narrative structure Holmes imposes on his argument.

He begins his story with Joseph de Maistre, the counterrevolutionary Catholic philosopher of the late eighteenth century. Maistre, as Holmes portrays him, held a foundational view of man’s essential

3. Pp 1-2. Holmes is concerned here solely with non-Marxist theorists, noting that the antibererals he surveys would likely assert that Marxism and liberalism are offshoots of the same tradition.

4. Don Herzog devastatingly critiques this methodology — especially as employed by critical legal studies scholars — in Don Herzog, *As Many as Six Impossible Things Before Breakfast*, 75 CAL. L. REV. 609 (1987).

5. Holmes notes in the introduction that after 1945 the rhetoric of communitarianism was “radically demilitarized.” P. 9. Moreover, he dryly detects a lack of martial seriousness in his postwar antibererals:

When MacIntyre or Unger suggest *en passant* that killing enemies or risking one’s life in the carnage of battle provides a solution to the spiritual emptiness of commercial society, readers cringe but then rightly dismiss the literal implications of what they say. A prewar antibereral, such as Schmitt, was obviously in greater earnest.

P. 10.

bloodthirstiness.⁶ Humans gathered together in society necessarily require an authority that is both final and absolute to prevent them from butchering each other. Maistre finds such authority in both a temporal and a spiritual incarnation: the monarch and the Church. Obedience to the absolute commands of these twin sovereigns provides the cement of community without which humans will descend ineluctably into depravity. Hence Maistre vociferously attacked the Enlightenment for replacing obedience with discussion, and he blamed the Reformation in particular for encouraging revolt against spiritual authority (p. 18). The direct result of this “horrific project of extinguishing both Christianity and sovereignty in Europe” (p. 18) is the Terror (p. 15).

Maistre provides Holmes an excellent opportunity to introduce the broad strokes of his “anatomy”: the necessity of unassailable political authority, or decisionism (pp. 18-19); the privileging of spiritual over temporal community — of sacralized over secular institutions — and the concomitant belief in the false necessity of the existing order (pp. 21-23); the characterization of the scientific method as degrading to morality (p. 23); the denigration of the individual, as compared to the group (pp. 25-27); and finally the simultaneous attitude of revulsion toward and exaltation of violence and bloodshed.⁷

From Maistre, Holmes neatly segues into a discussion of Carl Schmitt. Holmes points out that both Maistre and Schmitt experienced firsthand a “world-shaking crisis of authority” (p. 37). Schmitt’s revolution was the defeat of Germany in the First World War and the subsequent political instability of the Weimar Republic. Moreover, Schmitt’s earliest major work, *Political Theology*,⁸ contains an admiring chapter on the “decisionism” of Maistre and other “counterrevolutionary philosophers of the state.”⁹ The context of Schmitt’s work is crucial, of course. Holmes is fairly balanced in his portrayal, neither downplaying the particularly egregious aspects of Schmitt’s involvement with the Nazi Party, nor dismissing him as a mere Nazi theoretician.¹⁰

6. P. 28. Holmes imputes to Maistre a description of the Terror as “just another expression of the great law of mutual slaughter that dominates all human history.” Pp. 15-16.

7. Pp. 27-32. Maistre’s response to the Terror both as a horrific result of the abstract humanism of the Enlightenment and as part of a just God’s plan for religious revival nicely captures the tension in this attitude. P. 15.

8. CARL SCHMITT, *POLITICAL THEOLOGY: FOUR CHAPTERS ON THE CONCEPT OF SOVEREIGNTY* (George Schwab trans., MIT Press 1985) (1922).

9. *Id.* at 53-66.

10. As an example, Holmes notes that Schmitt hosted a conference on “German jurisprudence at war with the Jewish spirit” in 1936 to counter SS accusations of insincere antisemitism. Pp. 38-39. Conversely, Holmes refers to commentators who are sympathetic to Schmitt’s post-war denials of culpability in the Nazi catastrophe — including his biographer Joseph Bendersky — as “apologists.” P. 42. Schmitt’s role in the Third Reich may well have been less that of a true believer than that of a pragmatist, conforming his behavior to the dictates of the regime in order to advance his own ideas. See, e.g., George Schwab, *Introduction to SCHMITT*, *supra* note

Holmes rightly separates Schmitt's ideology from his actions and identifies the core principles of his thinking. The first principle is his famous enemy-friend distinction: that personal enmity is often crucial to politics (p. 40). The power to define this enmity is the exclusive province of the sovereign, and Holmes perceptively notes that Schmitt's hostility to communism was a product of communism's universalist posture: by positing a universal "class enemy," communism shifted the people's focus from the international to the domestic, thus weakening nationalism and encouraging internal chaos (pp. 41-43). The essential antidote to the militant pluralism that consumed Weimar Germany is for Schmitt the "decisive leader," or dictator. In contrast to the endless discussion that characterizes parliamentary democracy, Schmitt sees in dictatorship both the practical requirement of decisiveness and the theoretical legitimacy of democratic acclaim.¹¹ As Holmes notes, a commitment to democracy — defined as the direct expression of popular will, unencumbered by dissent, free speech, or opposition parties — is, at best, "perverse" (p. 49). But political legitimacy for Schmitt is a function of the crowd, of the almost mystical identification — captured so hauntingly by Leni Reifenstahl — between the ruler and the ruled.¹²

Holmes rightly admires much of Schmitt's thought;¹³ it is the admiration one has for a beautiful monster, perhaps. He also devastatingly refutes both the descriptive aspects of Schmitt's critique and his misreading of liberal theory. As Holmes points out, liberal societies are very capable of binding decisionmaking, are aware of and able to accommodate the demands of heterogeneity, and are quite adept at mustering defensive force and effectively governing far-flung empires (p. 58). Moreover, he notes, the rule of law governing the constitutional state as envisioned by John Locke is not the "sovereignty of abstract, self-applying rules" (p. 59) that Schmitt sees as hobbling the executive power, but rather a mechanism for maintaining the personal accountability of the executive when making those "hard" political choices Schmitt so admires (p. 59).

The last hardline antiliberal Holmes examines is Leo Strauss, and, again, Holmes provides an elegant segue. Strauss first gained widespread notice in 1932 with his review of Schmitt's *Concept of the Political*.¹⁴ Strauss also provides a kind of bridge between the hard- and

8, at xi, xiii (suggesting that Schmitt made "shocking" compromises with the Nazi regime in order to supplant Nazi "totalitarianism" with his own "authoritarianism").

11. Schmitt develops his critique of parliamentarianism in CARL SCHMITT, *THE CRISIS OF PARLIAMENTARY DEMOCRACY* (Ellen Kennedy trans., MIT Press 1985) (1923).

12. See TRIUMPH OF THE WILL (Riefenstahl Produktions 1934, video distributed by Embassy Home Entertainment 1986).

13. See, e.g., p. 57 ("Schmitt's criticisms of liberalism are often interesting and sometimes persuasive.").

14. P. 60; see Leo Strauss, *Comments on Der Begriff des Politischen by Carl Schmitt, re-*

softline schools of antiliberalism. If it is difficult to see the connection between the devotion to the Great Books of this cosmopolitan German-Jewish emigre and the hallucinatory fever of Maistre, it is easier to measure the impact of his critique of the modern West on the current cultural debate. The phenomenal success of Allan Bloom's contemporary warmed-over Straussianism¹⁵ should lay to rest any doubts as to his continuing influence.

Holmes focuses on Strauss's reading of ancient texts as teaching that "inequality is central to the human condition" (p. 70). From this conclusion Strauss constructed his own dualistic portrait of the world: there are "philosophers," those that understand this truth and live accordingly, and "the herd," who must be fed the pabulum of religion to spare them the pain of knowing this truth (pp. 64-65). This dualism provides the basis, not only of Strauss's contempt for the liberal ideal, but also of his strategy for dealing with its ascendancy. Not only is liberalism's central tenet — the essential equality of humanity — self-evidently wrong, indeed *unnatural* (pp. 81-82), but the liberal project itself is ultimately destructive of all social order. The masses, stripped of both their illusions and their capacity for obedience, will demand the satisfaction of their base desires well beyond the ability of a well-ordered society to deliver (p. 64). Moreover, the elite, equally seduced by the siren song of equality, will tend not to the ascertainment of eternal verities in service of their role but instead to the domination of nature, through science, necessary to satisfy the appetite of the polis (p. 72).

Hence the Straussian strategy of esotericism. Because of the dangerousness of the philosopher's view of the world,¹⁶ Strauss argues that philosophers must keep silent when addressing the herd. Far from advocating a remaking of the established order, Strauss seems oddly content with the world as it is — provided it has room for the lonely philosopher and his disciples. Perhaps it is his essential fatalism — certainly an ancient sensibility — that accounts for this. As Holmes points out, Strauss posits a realizable "good society" made up of sedated masses, gentlemen rulers, and philosophers directing the whole works, but at the same time Strauss argues that the creation of such a society depends on chance, rather than the willed intention of those who could truly appreciate such a society (p. 74).

As Holmes shows, the hardline antiliberals of his survey are just

printed in CARL SCHMITT, *THE CONCEPT OF THE POLITICAL* (George Schwab trans., Rutgers University Press 1976) (1932).

15. See ALLAN BLOOM, *THE CLOSING OF THE AMERICAN MIND* (1987).

16. Holmes deliciously skewers the pretensions of academics by suggesting that Strauss's view of philosophers as "walking time-bombs" may explain much of his appeal. P. 78. As Holmes notes, Strauss's insistence that intellectuals must obscure their understanding of the world lest they destroy the illusions that sustain ordinary men, is "[for] desk-bound scholars . . . an extraordinarily flattering idea." P. 78.

that; their attacks are not merely against the descriptive conditions of liberal societies but against their normative underpinnings as well. Like Maistre they refute the rule of law and privilege faith and obedience over reason; like Schmitt they disparage democracy by discussion and exalt the *fuhrerprinzip*; like Strauss, they deny any kind of political equality among persons, subscribing instead to a rigidly hierarchical social order. Holmes is at his polemic best in this part of the book. He notes the logical absurdity of Maistre's simultaneous claims that God's will is supreme and that the Enlightenment threatens to supplant God's will (p. 35). He conclusively shows that Schmitt's pose as a latter-day Hobbesian relies on a fundamental distortion of Hobbes's Erastianism to fit the peculiar contours of Nazi antisemitism (pp. 50-53). Finally, he exposes in Strauss the intellectual subterfuge of contrasting ancient philosophy with modern society, rightly chiding him for refusing to consider the conditions of ancient society as the correct comparison (p. 83). But once he turns his attention to the softliners, those who criticize liberalism but when pressed "reveal a surprising fondness for liberal protections and freedoms" (p. 88), the book, and Holmes's argument, begins to waver in focus.

The major difficulty centers on whether the inclusion of these softliners stretches the conceptual framework of antiliberalism beyond the point at which it ceases to do any interesting work. The truth is that the hard brand of antiliberalism simply does not pose a credible threat to much of anything. Although one could presumably argue that some events in Eastern Europe and the former Soviet Union signal a resurgence of Schmittian nationalism, those events are almost uniformly viewed as pathological by the liberal democracies; they pose no philosophical challenge to modern liberalism. So in order to raise the stakes high enough to be of interest, Holmes must demonstrate that salient internal critiques in modern states are merely the old antiliberal attacks dressed in fancy new clothes. The difference between a Carl Schmitt and a Christopher Lasch, however, may be more a difference in kind than degree.

This certainly seems to be the case with both Lasch and Alasdair MacIntyre. Softline antiliberalism seems most closely to conform to Holmes's idea of a sensibility rather than an argument. The sensibility here is primarily a generalized yearning for the prelapsarian past. For moralists like MacIntyre and Lasch — whom Holmes describes as communitarian conservatives (p. 141) — the failure of modern liberalism has more to do with its being modern than being liberal. For MacIntyre, the condition of modernity is the triumph of the secular over the sacred and a concomitant loss of moral authority. Holmes attempts to portray MacIntyre's response to this loss as "Schmittian" (p. 94). But unlike Maistre's privileging of religious faith as a means of enforcing obedience to the sovereign, MacIntyre seems to view religion as essential to maintaining a normative consensus (p. 97). This is

a subtle, but fundamental, difference, because it goes to the establishment of criteria, rather than of authority. MacIntyre is interested in discussion; his concern is that the radical secularization of modern life has eliminated any baselines by which to judge the merits of good arguments (p. 100). Moreover, he sees in the demise of religion the unraveling of the communitarian claims that bind people to the search for common good (p. 91). Indeed it is this yearning for community valuation that arguably links him to Schmitt¹⁷ and certainly aligns him with the cultural criticism of Christopher Lasch.

Lasch shares with MacIntyre a profound hostility to science and technology (pp. 97, 122-40). Lasch also envisions a bygone halcyon world — in his case a community of yeoman producers, free of the parasitic consumer class — but for Lasch science is merely an element of the lust for “progress” which he blames for the sorry state of modernity. Holmes nicely characterizes Lasch’s outlook as “anti-Promethean” (p. 128) and rightly takes him to task for failing to balance the benefits — like literacy and sanitation — with the costs of liberal progress — like drug addiction and impending environmental catastrophe (p. 137). What Holmes fails to achieve with his analysis of Lasch and MacIntyre, however, is a real connection between their grumblings about the modern world and the kind of sustained attack on liberal norms launched by Maistre and Schmitt. They seem, from Holmes’s description, less a serious threat to the liberal order than a couple of dyspeptic curmudgeons. Moreover, they do not seem antiliberal in any meaningful sense of the word.

This difficulty is even more pronounced in the chapter on Roberto Unger. Holmes describes Unger as a countercultural radical and distinguishes his brand of antiliberalism as that which assails liberalism, not for being anarchistic, but for not being anarchistic enough (p. 141). For Unger, the sin of liberalism is not that it has loosened the bonds of community but rather that it stamps out the “spontaneity of the soul” (p. 158). Hence Unger’s own self-description as a “superliberal” (p. 160). Admittedly, this is a recent stance for Unger, and Holmes capably narrates the labyrinthine progression in Unger’s work from communitarianism to individualism. He also quickly exposes the vulnerabilities of superliberalism as theory, especially the assumption that context smashing can substitute for moral doctrine (p. 169). It seems odd, however, to argue that the call “‘to redeem liberalism through more liberalism’ ” (p. 160) is an antiliberal one. Moreover, one gets the sense in this chapter that Holmes is shooting ducks in a pond: if Unger quite simply is not a rigorous thinker, and if his grandiosity and confusion keep him firmly at the margins of academic debate, then why has Holmes devoted an entire chapter to his work?

17. The link, however, is tenuous. For Schmitt the community serves as the means of distinguishing friend from enemy; for MacIntyre, it serves to provide a moral vocabulary.

After a too-brief chapter on the communitarian “trap” (pp. 176-84), in which Holmes takes Michael Sandel, Charles Taylor, Robert Bellah, and others to task for attaching moral significance to terms like *social* that are inherently descriptive (p. 178) and for, again, systematically confusing criticisms of liberal society with criticism of liberal thought (p. 181), Holmes attempts in Part II to answer the standard descriptive claims about liberalism put forward by its critics.

To the charge that liberalism conceives of individuals as atomized, Holmes answers that antiliberals have misinterpreted Locke’s requirement of consent to authority as a claim of presocial rationality and decontextualized social contract theory in general (pp. 193-94). Reliance on rational self-interest is a normative and not a descriptive claim: the point is not that people are necessarily the best judges of their needs but that there is no good reason to assume that their rulers necessarily are (p. 197). Likewise, liberal theory, grounded on consent of the governed, is hostile, not to authority as such, but merely to that authority that is arbitrary and capricious (p. 203). Finally, Holmes argues that liberal rights, because they carry correlative duties, are not inherently alienating (pp. 228-31) and that the elaborate procedural mechanisms that liberal states employ to channel naked preferences into political discourse reveal that liberalism has never been grounded in “moral skepticism” (p. 235).

These claims are all good, of course, but what about those community-oriented arguments? It is here that Holmes’s book finally does not satisfy. In John Rawls’s most recent book, he addresses the tensions between claims of individualism and claims of community by noting that “[a] well-ordered democratic society is neither a community, nor, more generally, an association.”¹⁸ This rejection of community for Rawls follows from the observation that “the diversity of reasonable comprehensive religious, philosophical, and moral doctrines found in modern democratic societies is not a mere historical condition that may soon pass away; it is a permanent feature of the public culture of democracy.”¹⁹

I do not mean to equate Holmes’s project with Rawls’s, but what must follow from Rawls’s assertion is that liberalism must find the means to accommodate these competing doctrines without destroying itself and that the challenges posed by various strands of contemporary legal communitarianism cannot simply be brushed off by demonstrating that such claims are based on a misreading of liberal theory. Liberalism, after all, predates modern democracy. The argument that rights generally understood as private are better conceived of as public and deriving from the political community — implicit in advocacy for

18. JOHN RAWLS, *POLITICAL LIBERALISM* 40 (1993) (reviewed in this issue by Professor Joshua Cohen —Ed.).

19. *Id.* at 36.

hate-speech codes, for example — cannot be adequately answered by a narrow appeal to correlative duties (p. 228). Inappropriate preference formation in general poses particularly thorny dilemmas for liberalism. One attempt out of the thicket is the revival of republicanism, focusing on the transformative and deliberative nature of political community as a means of mediating the tensions between self-governance and governance by law — between the needs of the individual and the needs of the community.²⁰ Is modern republicanism thus “antiliberal”? Perhaps even more salient is the literature on preference formation itself.²¹ Liberalism must develop models thick enough to account for the constitutive role of legal institutions, the presence of heuristic biases, and the impact of risk-assessment on the choices actors in a liberal society make. When those choices imply broad consequences for society as a whole, as they often do in the environmental arena, for example, it does not satisfy to note simply that Locke and Montesquieu were aware of the elementary processes of character formation.

In an earlier work, Holmes has written splendidly of the early period of modern liberalism,²² and *The Anatomy of Antiliberalism* provides the same kind of thoughtful and important analysis of the rise of antiliberal thought. His chapters on the hardline antiliberals sparkle with acerbic wit and cogent criticism. But Holmes’s attempt to extend his critique of these theorists to encompass contemporary softliners both robs the hard antiliberals of their rhetorical power and disserves the intentions of contemporary dissenters from the liberal orthodoxy.

— Jeffrey R. Costello

20. See generally Frank Michelman, *Law's Republic*, 97 YALE L.J. 1493 (1988); Cass R. Sunstein, *Beyond the Republican Revival*, 97 YALE L.J. 1539 (1988).

21. See, e.g., JON ELSTER, *SOUR GRAPES: STUDIES IN THE SUBVERSION OF RATIONALITY* (1983); STEVEN KELMAN, *WHAT PRICE INCENTIVES? ECONOMISTS AND THE ENVIRONMENT* (1981); Amos Tversky & Daniel Kahneman, *Judgment Under Uncertainty: Heuristics and Biases*, 185 SCIENCE 1124 (1974).

22. See STEPHEN HOLMES, *BENJAMIN CONSTANT AND THE MAKING OF MODERN LIBERALISM* (1984).