

POLYCENTRIC GOVERNANCE AND THE GOOD SOCIETY

*A Normative and
Philosophical Investigation*

EDITED BY DAVID THUNDER
AND PABLO PANIAGUA



POLYCENTRICITY: STUDIES IN INSTITUTIONAL DIVERSITY AND VOLUNTARY GOVERNANCE

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This interdisciplinary series explores the varieties of social institutions, processes, and patterns of governance that emerge through individuals' coordination, cooperation, and competition in governance systems based on freedom of choice, freedom of exchange, and freedom of association. Under conditions of relative freedom of association, human diversity leads to institutional diversity and polycentric structures. In contrast to monocentric, unitary, and hierarchical command and control systems, polycentric social systems comprise many decision centers interacting freely under an overarching set of common rules. First introduced by Michael Polanyi as a descriptive and normative feature of free societies and further elaborated by Nobel Prize in Economics recipient Elinor Ostrom and public choice political economy co-founder Vincent Ostrom, the notion of polycentricity has proven to offer a powerful analytical framework for expanding our understanding of the operation of governance regimes, constitutional federalism, law, public administration, private ordering, civics and citizenship, subsidiarity, nonprofit organization, cultural pluralism, civil society, and entrepreneurship. Studies in this series will refine the conceptual framework of polycentricity and its governance theory implications, while expanding their application in the study of what Alexis de Tocqueville called the art and science of association. These studies should be of interest to scholars, policymakers, executives, social entrepreneurs, and citizens working to devise ways of living together harmoniously in civil societies.

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Chapter 1

An Ethical Case for Bottom-Up, Polycentric Governance in a Complex Society¹

David Thunder

Since the early twentieth century, we have seen numerous critiques by political philosophers, jurists, historians, and political economists of the Enlightenment ambition to introduce order into the social fabric through the centralized administrative State. Whereas monistic thinkers writing in the shadow of Hobbesian and Lockean political theory tend to associate high levels of social, institutional, and governmental diversity and fragmentation with instability and disorder, this new crop of pluralist thinkers came to view complex and multidimensional social orders not only as a potential source of conflict, but as an essential feature of a well-functioning society and even as an asset for tackling an infinite variety of social problems not susceptible to one-size-fits-all solutions. The aim of this chapter is to complement and further illuminate existing defenses of social and institutional pluralism by more explicitly building a case for polycentric governance based on the requisites of human flourishing in a complex society. The aim of good governance and sound social coordination, on the approach I defend, is not to monopolize the functions of social governance, but to cooperate with other relevant actors in facilitating the expansion of opportunities for human flourishing, while fostering and protecting the integrity of the complex social infrastructure of flourishing.

Thomas Hobbes's *Leviathan* marked a watershed moment in Western political thought. Most medieval and some early modern political theories had sought to uncover a principle of unity consistent with a multilayered, complex, and differentiated social landscape (e.g., Gierke 2014 and Althusius

1995). Much of the political philosophy that comes after Hobbes, by contrast, tends to view the task of the political philosopher as that of bypassing the prevailing social infrastructure, with a view to formulating principles and institutional mechanisms capable of unifying a vast number of individuals together under the terms of a *unique* social contract, or a *unique* shared system of government. An enormous amount of effort was devoted to overcoming the fragmented loyalties associated with feudalism, and installing in their place a single overriding loyalty to the political project of the modern State. This integrating project was invigorated by the urgency of developing a type of political belonging that was not splintered by religious warfare.

Given the great harms inflicted by the wars of religion, one can readily understand why political philosophers undertook to develop a political theory capable of legitimating a highly integrated, large-scale civil order apt to secure the conditions of peace and cooperation across large and diverse populations. Monistically inclined, State-centric theorists generally viewed social and institutional complexity as a wild beast to be tamed and domesticated by the State (e.g., Schmitt 2007; Weber 1964; Kelsen 2002; and Rawls 1971). However, over the course of the twentieth century, especially in its latter decades, a growing number of political theorists, jurists, and social scientists came to have second thoughts about this integrating project.

A new crop of thinkers across a variety of fields, including law, history, political philosophy, institutional economics, and public choice theory, began to make the case that Statist political theory and social science had grossly oversimplified the nature of political order and governance, by (i) exaggerating the power of the State to confer order on a diverse social landscape, and (ii) underestimating forms of order and governance that were not derived from the institutions of the State, but were already latent in the fabric of a complex society.²

This essay could be seen as a contribution to this broad re-valorization of social and institutional complexity. I propose to tap into a broadly neo-Aristotelian account of human flourishing along similar lines to Alasdair MacIntyre's (1981), to illuminate the benefits of social complexity and differentiation for humans' well-being, and infer from this account some fundamental principles of sound social coordination and good governance. My argument on behalf of social complexity goes further than that of most other authors insofar as it shows, in an explicit way, how a highly differentiated social landscape configured by a plurality of independent normative orders provides an *indispensable social infrastructure* for free and flourishing human life, and how this ethical interpretation of complexity might shape our approach to social coordination and good governance.³

The argument will unfold in six steps: I begin by very briefly reviewing four well-established strategies pursued by political and legal philosophers,

political economists, and historians for defending the necessity and/or value of social complexity, and suggesting that the fourth of these strategies, a *strictly ethical* defense of complexity, remains relatively underdeveloped in the literature. I then begin to set the foundations for my approach to complexity by explaining what I take to be a touchstone value for a good society: the “freedom to flourish.” Third, I suggest that the freedom to flourish cannot be realized outside the context of a social group guided by a shared set of ends, norms, customs, and narratives, or what I call a “normative order.” Fourth, I argue that given the complex and multidimensional character of the human good, a plurality of independent associations, each guided by its own distinctive and autonomous normative order, is a necessary precondition for people to enjoy adequate opportunities for personal growth and flourishing. Fifth, I adduce some reasons for pessimism concerning the capacity of a State equipped with wide-ranging sovereign power to offer reasonable accommodation to a plurality of distinct normative orders within its territorial jurisdiction. Finally, I round out the argument by suggesting that three important values for a social arrangement friendly to the freedom to flourish are voluntarism, proximity of rulers to the ruled, and the bottom-up constitution of power.

1. PREVAILING ARGUMENTS FOR THE VALUE AND/OR NECESSITY OF SOCIAL AND INSTITUTIONAL COMPLEXITY

There are many sophisticated discussions in the social science literature concerning the nature of complex phenomena, complex systems, and complex social arrangements (see, for example, Gaus 2021; Hayek 1967; Mitchell 2011; and Paniagua 2023). For present purposes, I shall understand a complex society as one that exhibits the following features: (i) it is a collection of individual persons and groups of persons engaged in purposeful activities (ii) that interact with each other and respond to each other dynamically over time (iii) in ways that (intentionally or unintentionally) produce both local and large-scale societal outcomes and patterns, such as wealth production and distribution, social norms and attitudes, war and peace, and institutional and linguistic development, where (iv) distinct groups of individuals are guided and shaped in their group activities by their own distinctive normative orders (purposes, projects, values, customs, and rules) and (v) these diverse normative orders are sufficiently heterogeneous that they cannot all be simultaneously embodied within a single human life or within a simple, austere, or homogeneous social structure.⁴

Political and moral philosophers have viewed social and institutional complexity as either valuable or necessary from a number of different perspectives. To begin with, social complexity may be viewed as something to be accepted as an *unavoidable outcome* of personal freedom. In a large and diverse society, if you permit people to act on their preferences and life plans, they will inevitably pursue divergent ends, and generate a wide range of diversely structured and governed associations. The resulting social arrangement must be managed rather than suppressed, on this view, either as a pragmatic concession to human nature, or out of deference to the value of personal freedom. Either way, the acceptance of complexity is usually tempered by some normative constraints, whether procedure-oriented principles of justice, such as freedom of contract, private property rights, and non-aggression (Nozick 1974 and Kukathas 2003), or alternatively by a more demanding, outcome-oriented conception of distributive justice (Rawls 1993 and Christiano 2008).

A second way to view the value of social complexity is as a necessary precondition for diverse identities, projects, and ways of life to thrive and enjoy some degree of social recognition. Only in a society with a certain minimum amount of cultural and institutional differentiation is it possible for people to pursue projects and forms of life they can identify with or find meaning in. This argument is consistent with William Galston's eloquent defense of freedom of association, which couches the value of living a meaningful life in the language of "expressive liberty" (Galston 2002). Another well-known version of the argument for accommodating diverse ways of life based on their importance for people's sense of meaning and purpose is made by Will Kymlicka and James Tully (Kymlicka 1995 and Tully 1995) in relation to the rights of indigenous peoples to have access to a social, political, and legal framework within which they can coherently orient their lives, even if that means carving out exemptions to the normal rules and conventions established by a territorial government or a liberal constitutional State. Analogous arguments have been made by the English pluralists in defense of the integrity of non-State associations, such as churches and guilds (see Cole 2015; Laski 2008; and Figgis 2013).

A third way to view social complexity is as an asset for more efficiently solving problems of social coordination and meeting citizens' grassroots needs in a large and diverse society. The Ostromian school of political economy, otherwise known as the "Bloomington school," is perhaps the most well-known representative of this approach. Elinor and Vincent Ostrom and their colleagues took the lead in investigating the value of institutional decentralization, diversity, and competition, as ways for different social groups to evolve tailored solutions, often on a trial-and-error basis, to well-defined common problems, such as the provision of non-excludable common goods

(“common pool resources”) like policing and water, and the protection of natural resources from excessive exploitation or pollution (see especially E. Ostrom 2015). Similar conclusions about the pragmatic value of social and institutional complexity and the limits of centralized, technocratic governance as problem-solving tools were reached by institutional historian James Scott (1999) and journalist-activist Jane Jacobs (1992).

These three arguments in favor of accepting or endorsing complex and differentiated social structures all have their merits, but they also lack a crucial lens for grasping and further articulating the value of social complexity, namely, the ways in which a complex and differentiated social order is necessary in order to service the *rounded human flourishing* of its participants. This is an ethical and anthropological argument that is broader than coordination problems like urban and agrarian planning, the management of shared resources like water, or the effective coordination of a policing system. The failure to engage with ethics in a fundamental and rigorous way leaves most normative defenses of social and institutional complexity incomplete: while they may justify complexity either as a necessary consequence of freedom, or based on some *specific dimension* of flourishing, such as cultural identity, political self-determination, economic efficiency, or informed decision-making, they do not do so based on a broad account of human flourishing and its requirements. This chapter, while it cannot hope to offer a fully developed or comprehensive ethical account of the value of social and institutional complexity, is intended to offer a preliminary sketch of what such an account might look like. My hope is that such a sketch might facilitate a richer and broader cross-disciplinary conversation on the value of social and institutional complexity and its implications for the governmental structures of political and economic institutions.

2. THE FREEDOM TO FLOURISH

One of the principal burdens of this chapter is to show that a certain sort of social complexity is critical to the enterprise of living a flourishing or worthwhile human life, and it can only be preserved by a method of governance and cooperation that is, in important respects, voluntarist, localist, and bottom-up in spirit and in operation. In order to reach an accurate assessment of complex social structures and their governmental exigencies, we must begin by understanding what makes for a functional and attractive social order. My argument will assume that any functional and attractive social order must be consistent with the freedom to flourish. Let me explain what I mean by the freedom to flourish:

Since human beings can only realize worthwhile lives in and through their own free choices, freedom is a necessary ingredient of human flourishing.⁵ The value of freedom in a human life is hard to make sense of unless it enables the freedom-bearer to achieve some aspect of flourishing. Freedom cut off from the possibility of human flourishing is simply not worth having, not inherently desirable or choice-worthy. While one could stipulate a purely formal definition of freedom as self-determination in accordance with an agent's goals, whatever they happen to be, this by itself would not make a human life worth living, nor could it be a central value or normative pillar of a functional or thriving society. That is because the value of freedom only becomes intelligible as a *value worth pursuing and protecting* when its bearer has the possibility of choosing worthwhile human ends. For example, a person enjoying perfect liberty to make his or her own choices independently from external threats or interference could find herself stranded alone on a desert island, with no way to channel that freedom toward a way of life she has reason to value, involving basic human goods such as love, friendship, the pursuit of complex projects, the enjoyment of beauty, and so forth. Or as Jeremy Waldron has persuasively argued, the homeless man who has the legal freedom to purchase or rent a home, if deprived of real opportunities to better his lot, is unlikely to put much stock on his freedom from interference or domination (Waldron 1991).

Bearing these considerations in mind, in the context of the present argument, we may stipulate that freedom is *the capacity of individuals and groups to direct their lives toward personal and communal flourishing in ways that are responsive to their own rationally informed and uncoerced choices and sense of meaning and purpose*.⁶ I call this conception of freedom the *freedom to flourish*, to highlight the fact that individual and collective freedom is conceived as a genuine personal and social value only insofar as it involves realistic opportunities to realize flourishing human lives. According to this account, which is largely consistent with Joseph Raz's view (Raz 1986), an agent only enjoys a valuable or choice-worthy form of freedom—the sort of freedom we have reason to promote and protect—when he or she has the possibility of choosing objectively valuable human ends, i.e., ends that help to contribute to, or constitute, a flourishing human life; while the optimal use of freedom is that which issues in the enjoyment of such ends.⁷

Freedom is promoted by multiplying opportunities for flourishing. However, this does not license a centralized State to engage in ambitious forms of social engineering, for two reasons: first, because *any* social intervention must be consistent with the reasonable autonomy of citizens, and must aim at securing the consent of relevant stakeholders, both through individual assent and through the assent of representatives of associations; and second, because once we admit the importance of social, cultural, and institutional pluralism

for human flourishing (an argument I make in section 4), this precludes any government from imposing a single, homogeneous normative order unilaterally over the whole social fabric. Paradoxical as it may at first appear, the best way to expand opportunities for genuine human flourishing is through a form of *political restraint* that respects and protects the agency and choices of individual and corporate actors as much as possible, within the bounds of widely shared norms of civil and lawful conduct.

Since freedom is worthless if separated from human flourishing, an argument in defense of human freedom must rely on some conception of human flourishing, however modest. The conception of human flourishing my argument relies on is characterized by the following four features: (i) first, deliberation and choice are critical constitutive ingredients of a flourishing human life; (ii) second, the pursuit and achievement of human flourishing is inherently an *embodied, developmental, and socially embedded* enterprise; (iii) third, the content of human flourishing is extraordinarily complex or multifaceted; (iv) and fourth, in spite of this complexity, there is no reason to rule out the possibility of adjudicating the comparative merits of diverse human ends, or identifying universal requirements of a flourishing human life. Let us unpack these features one by one:

(i) Rational Deliberation and Choice as Critical Ingredients of a Flourishing Life

Rational deliberation and choice are not just instruments for achieving a flourishing human life, but they are *constitutive elements* of a flourishing human life, in the sense that the very act of deliberating and choosing, and becoming better at deliberating and choosing, is part of what it means to thrive as a human being. Even if one enjoyed certain physical, intellectual, spiritual, and emotional dimensions of flourishing, one's life would be profoundly impoverished to the extent that one acted entirely at the mercy of fate, or other people's choices, rather than living a life at least partly informed by one's own choices about how to act and live.

Rationality should not be confused with a hubristic conception of the power of reason, or a denial that life is an adventure full of mystery and surprises. However, as rational agents, we are answerable for our choices, and if we take our own lives seriously, then we will live responsibly, cultivating an awareness of the available choice set, and reflecting upon what is at stake in how we choose to live.⁸ To forsake rational deliberation about the requirements of a good human life is to live recklessly, unmoored from rationally informed judgment, and risk collapsing into unthinking conformism, incivility, and callous indifference to the needs of others.

(ii) The Embodied, Developmental, and Social Character of Flourishing

The notion of “good” or “human flourishing” I will rely upon in this chapter is rooted in an anthropology of embodied dependence, much along the lines of what Alasdair MacIntyre (1999) lays out in *Dependent Rational Animals*. Human beings are embodied and dependent creatures, with a natural lifespan, and a potential for physical, intellectual, moral, emotional, and spiritual development. Just as a competent medical doctor can identify the difference between the normal, healthy development of a human organism, and its pathological development, in a similar way, a psychologist can identify the difference between someone who is able to function and adapt to their social environment in more or less healthy ways, without relapsing into childhood neuroses or destructive addictions. Similarly, a responsible parent can tell the difference between a child who is becoming a generous, kind, compassionate, and prudent person, and a child who is becoming steadily more selfish, narcissistic, cruel, or reckless. In each of these cases, there is a potential in the human being to mature and grow along some dimension of human flourishing, whether physiological, emotional, or intellectual, and that potential may be either squandered or successfully enlarged and developed.⁹

Besides being embodied and developmental, the pursuit and realization of the human good is necessarily *socially embedded*: that is to say, social groups provide an inescapable context for our efforts to realize our full human potential. Living an asocial life, we may be either “gods” or “beasts,” as Aristotle put it (*Politics*, 1.2.1253a28-30), but we are not living a fully human life, a life in which distinctively human capacities, such as the capacity for deliberation, play, and friendship, are given a chance to develop. Human beings thrive by learning to become better at making choices about how to live and respond to the world around them; and this is achieved by learning to participate more competently and responsibly in the life of human communities.¹⁰

(iii) The Complexity of Human Flourishing

In general, human beings and human communities cannot reach their full potential by developing exclusively along a single dimension of flourishing: Individual human beings require a *complex package of goods* in order to flourish as human beings, including physical and mental health; emotional bonding with lovers, family, and friends; the sincere and diligent pursuit of truth; the enjoyment of art and leisure; and the advancement of some socially or professionally fruitful project. Human communities typically seek to flourish along many different dimensions, including the possession of sufficient material resources to cover the community’s vital needs; peace and friendship

among their members; success at advancing associational ends; the development of structures and habits of good governance; and equitable distribution of the community's material resources and knowledge.

There is another important sense in which human flourishing is immensely complex: there are many different ways individual human beings may reasonably interpret and realize their own flourishing, which may vary according to their peculiar circumstances, capacities, virtues, resources, choices, and sense of calling. This is most obvious in the case of the individual: there are many different legitimate ways to live a flourishing human life, and no single, narrow path can be prescribed for everyone. Even if we accept that certain dispositions of character are necessary to live a good human life—for example, justice, courage, prudence, and temperance—different individuals, on account of their personal aspirations, latent talents, personal history, or sense of calling and purpose, may require different conditions in order to realize their own personal potential. *Mutatis mutandis*, similar considerations apply to human communities, whose flourishing inevitably depends on their unique history, resources, composition, sense of collective purpose, and of course, the continuing choices of their members in regard to the life of the community in question.

(iv) Universal Requirements of Human Flourishing

Now, admitting the complex and pluri-dimensional character of the human good in no way requires us to renounce the possibility of making valid comparative judgments between human ends, or identifying general requirements of a flourishing human life. For the complexity of the human good is not tantamount to moral relativism: it is constrained by the embodied and psychic nature of the human being, and by the indispensability of certain goods for a worthwhile and functional human life. If pluralism were *absolute or unconstrained*, we could not say that one form of life was superior to another, or that some choices and lifestyles are abhorrent or ignoble. But the type of pluralism I am endorsing here need not rule out comparative judgments, and it is constrained by certain goods without which, I take it that any human life would be significantly impaired or impoverished.

What might such essential goods be? There are certain basic human capabilities, as Amartya Sen (1999) and Martha Nussbaum (2011) have argued, without which *any* human life would be significantly impoverished. On this list we could include the capacity to breathe, receive nourishment, and maintain one's bodily integrity; the capacity to move relatively freely from place to place; the capacity to live in a safe home; the capacity to develop lasting human friendships; the capacity to love and be loved; the capacity to enjoy a sense of inner peace; the capacity to think clearly about one's choices and

projects; the capacity to exercise a significant measure of rational mastery over one's life; the capacity to cooperate with one's peers in shared projects with worthwhile ends; and the capacity to enjoy recreational and restful activities.¹¹

3. ASSOCIATIONS AND NORMATIVE ORDERS AS GUIDING FRAMEWORKS FOR HUMAN FLOURISHING

If we wish to understand the contribution of social complexity and differentiation to human flourishing, we must pay close attention to the structure and functions of social groups and how they condition the quality and intelligibility of the lives of their participants. In other words, we need to develop a *social ontology of flourishing*: an account of the complex social structures, relationships, and norms through which human beings may realize rounded and flourishing lives.

Outside of human society, distinctively human capacities, such as the capacity for rational deliberation, love, and friendship, are not given a chance to develop. Thus, effective or functional participation in the life of social groups is a necessity, not a luxury, for human beings. In order to participate competently or rationally in the life of a social group, one needs to adapt one's attitudes and behavior to the goods and purposes around which the group is organized, the goods and purposes that render the group's activities and projects intelligible.

This process of adaptation is made possible by participation in social practices guided by shared expectations and rules that are either declared or manifested in the life of the group. These shared expectations and rules may be thought of as a set of *public signals* or signposts—not just rules, but customs, shared narratives, and role models as well—that give a sense of meaning and purpose to associational life and transmit to group members a pattern of behavior, attitudes, intentions, and dispositions that is appropriate, desirable, obligatory, inappropriate, undesirable, or prohibited. A cluster of interrelated and more or less coherent signals of this sort, salient within a particular social group, is what I shall call a “normative order.” A normative order is the indispensable cultural and institutional infrastructure without which orderly and intelligent participation in the life of *any* human community—whether a society of saints or a band of thieves—would be impossible.¹²

Normative orders, be they institutional structures, customs, collective narratives, or social norms, feed the moral imagination and shape the suite of opportunities, practical possibilities, and eligible strategies that confront the members of a social group. Nonetheless, they need not be understood as deterministic or inherently opposed to personal freedom. It ultimately falls to

each new individual, and each new generation, to make what they will of their institutional and cultural inheritance. As Barden and Murphy (2010, 21–22) point out, customs gain their authority precisely from being affirmed, time and again, by the choices of individuals to treat a certain pattern of behavior as normative, desirable, or reasonable—and the same could surely be said of institutional norms.

4. WHY INSTITUTIONAL AND NORMATIVE DIVERSITY IS NECESSARY FOR HUMAN FLOURISHING

Given that not all communities and social groups pursue identical goals, we can reasonably assume that rational cooperation in a large and complex social space, e.g., the population of a national territory, will require a plurality of normative orders (including rules, customs, and methods of governance), corresponding to a plurality of goods and purposes. To live a complete or well-rounded human life, one must normally participate in *more than one* association, precisely because each human association is capable of advancing a particular, limited dimension of human flourishing, not human flourishing in its totality. The goods served by a monastic settlement are not the same as the goods served by a university, and the goods of a university are not the same as the goods of a city, technical school, church, athletic club, trade association, philanthropic society, volunteering community, dance club, and so forth.

Of special importance for my argument, the differences between these diverse normative orders cannot be somehow neatly reconciled within a single, perfectly coherent normative order. The range of goods pursued across different associations cannot be adequately pursued without the institutional and cultural infrastructure of plural, and sometimes conflicting, normative orders—diverse community narratives, diverse missions, diverse social norms and expectations, diverse ideals of character and human excellence. That is to say, the human good is too complex and multidimensional to be tracked exclusively by the normative order of a single community or association. That would overestimate the cognitive capacities of rulers and underestimate the degree to which different associations pursue incommensurable purposes. I do not believe there has ever been a historical moment in which a uniform, society-wide scheme of law or normativity has been able to perfectly harmonize with the reasonable missions, values, and prerogatives of all human associations regulated by it. There is a certain level of interpretive contestability and rationally irresolvable “stalemate” latent in any wide-ranging coordination scheme in a large, diverse society.¹³ For

these reasons, a single, overarching normative scheme *cannot systematically displace, absorb, or reconcile* local normative orders without doing serious damage to their distinctive goods and purposes.

This does not mean that associations governed by diverse normative orders cannot communicate or coordinate joint activities, nor does it mean that diverse normative orders must be tolerated unconditionally, without reference to wider norms and purposes. Nor does it mean that rule of law is impossible, or that we are destined to be endlessly at war with our neighbors. It does mean, however, that the standard modern conception of rule of law, enforced by a single, irresistible, dominating actor, needs to be replaced by a more restrained and polycentric conception of rule of law as emergent and socially contested (even if certain minimum standards are agreed), under the joint supervision of a plurality of social stakeholders, judicial systems, and enforcement agencies.

5. THE COLONIZING TENDENCIES OF THE SOVEREIGN STATE

It is impossible in the context of the present chapter to show, in a definitive way, that the sovereign State is inconsistent with the complex social ecology of human flourishing.¹⁴ Nevertheless, I will offer some important reasons to be pessimistic about the capacity of a State that conceives itself as sovereign over the social order, to accommodate a plurality of independent normative orders servicing distinct dimensions of the human good. The normative order of the modern State, particularly in its more consolidated or centralized forms, has three features that lead it to colonize rival normative orders in such a way as to undermine their integrity: First, it is a normative order deeply influenced by the rather top-down, mono-centric social ontology of certain influential strands of modern liberalism, according to which individuals are viewed primarily as independent rights-bearers and citizens of a *State-based association*, and only secondarily as individuals with allegiances to non-State groups; second, it claims for itself a supreme or unrivaled form of authority over the social sphere, which enjoys substantial social recognition (legislators, judges, and state officials typically view non-state associations as fully integrated within the normative order of the State, and only valid insofar as they conform fully to that normative order); and third, it exercises its supreme authority not merely with moral persuasion or market incentives, but with the support of *non-voluntary taxes* on income and resources, and *coercive sanctions* for non-compliance with its decisions.

Due to the complexity and heterogeneity of the social order, many fiscal and regulatory interventions of the sovereign State, however well-intentioned, are liable to damage non-State associations' capacity to promote the goods they seek to pursue, in at least four ways:¹⁵ First, the rules imposed by the sovereign State may interfere with the rules, norms, and customs an association recognizes as germane to its mission. Second, the rules imposed by the sovereign State may have a chilling effect on the birth of new associations, many of which may fail to institute their preferred normative orders simply because they anticipate that the normative order they wish to institute will very likely be suppressed, inhibited, or overridden by that of the State. Third, the taxing powers of the State enable it to coercively siphon a substantial quantity of material resources and income away from citizens and groups toward its own favored projects, leaving many associations with a heavily reduced capacity to raise funds among their members, with a view to financing their own distinctive projects. Fourth, the coercive taxing powers of the State provide it with a powerful tool to impose its own normative order unilaterally, by introducing regulatory preconditions for the public financing of projects. In this instance, the rules of the State are not "imposed," strictly speaking, but insofar as compliance carries a large payoff funded by tax contributions and/or public debt, and insofar as the State may easily outbid many other financiers, associations have a very powerful incentive to adopt the regulations of the State.¹⁶

It should be noted here that I am not suggesting that *any* attempt by an independently constituted authority to limit social pluralism or regulate associational life is to be ruled out a priori. A society free from regulation would involve a large amount of oppression and injustice both within and across associations. Rather, my point is that the logic of *sovereign rule*, widely associated with the modern State, puts small- and medium-sized associations at an enormous disadvantage, both ideologically and institutionally, vis-à-vis the sovereign regulator. Modern doctrines of political sovereignty (which crucially conceive the State as possessing a form of authority over the social landscape that is general-purpose, supreme, exclusionary, and coercive) provide an ideological pretext for heavy-handed interventions by the State in the life of associations that exist within its territory, rather than encouraging the sort of caution and deference that is frequently exercised toward foreign authorities.

6. THE ETHICS OF COOPERATION: A VOLUNTARIST AND BOTTOM-UP APPROACH

So far, I have argued that social and institutional complexity of a certain sort—namely, the co-presence of a plurality of associations guided by diverse normative orders not replaceable by a single “uber” order—is a necessary feature of a society that affords its members meaningful opportunities to live free and flourishing lives. In addition, I have argued that the modern State, insofar as it exerts a general-purpose and supreme regulatory authority over the social order at large, is likely to progressively erode social complexity by colonizing rival normative orders with its own. But if we are to construct a civil order that is friendlier than the sovereign State to the social ecology of flourishing, then we need to start by going back to basics: *what sorts of values and principles should inform a cooperative scheme consistent with the freedom to flourish and its complex social infrastructure?* In the remainder of this chapter, I outline three fundamental values that might guide social cooperation and governance while accommodating the type of social and institutional complexity that could support flourishing persons and communities: (i) individual and corporate voluntarism; (ii) a preference for proximity of rulers to ruled; and (iii) bottom-up delegation and control of power and authority.

(i) Individual and Corporate Voluntarism

Freedom goes to the core of who we are as human beings, and it sets us apart from non-human animals, which act emotionally and instinctually, but not in accordance with reflexive, rationally informed deliberation and choices. One crucial aspect of healthy relationships is that they are conducted in such a manner that each party conserves their freedom to flourish at all times. That implies that the relationship is initiated, modified, and developed over time in ways that respect the free will and fundamental interests of each party, to the extent that this is practicable. A relationship marked by intimidation, domination, manipulation, or coercion by one party over another, or a relationship in which one party consistently derives the benefits of the relationship at the expense of the other, is ethically degrading inasmuch as it does not honor the freedom to flourish.

If we are committed to honoring the freedom to flourish, this has implications for how we view the requirements of healthy interpersonal relations: first, interpersonal dealings must be conducted on a maximally voluntarist basis; second, intergroup dealings must be conducted on a maximally voluntarist basis. The importance of voluntarism in interpersonal dealings is both intuitively obvious and widely treated by liberal and republican theorists

alike (see, for example, Rawls 1993; Buchanan and Tullock 1999; and Pettit 2012). One of its important implications is that individuals should be free to *exit* associations that are not to their pleasing. Given the fundamental role of interpersonal freedom in a flourishing life, the right of exit, along with legal protection from injuries to life and limb and tangible threats to the life and safety of third parties, mark clear limits to freedom of association.¹⁷

The importance of voluntarism in *inter-group* dealings, on the other hand, seems to be less well understood. The individual necessarily finds meaning and purpose in the context of group life. Representatives of groups are authorized to represent and serve their members' identity, interests, and needs. That function can only be performed adequately if inter-group dealings respect the consent of groups and their representatives. Where mutuality and consent in inter-group dealings are jettisoned, or the public standing and claims of a group in its corporate capacity are treated with disdain, representatives or trustees of groups lose any effective power to advocate for or defend the vital interests of the group and its membership. A group's representatives may be respected internally, within the group, but if they are disregarded or ignored outside the group, the group loses its capacity to defend its interests in relation to the wider society.

Voluntarism should not be understood as a value to be unconditionally maximized, but a value to be cultivated and protected, in conjunction with other important social norms, such as rule of law, bodily integrity, and freedom of contract. Voluntarism in interpersonal and inter-group dealings is not an absolute value—clearly, there are circumstances in which the will of individuals and groups should be controlled or limited; and there are respects in which social life inevitably conditions individual and corporate freedom, whether we like it or not. Nevertheless, there is a big difference between a society that aims to cultivate voluntarism, and one that is either indifferent to, or hostile to, such an ideal.

(ii) A Preference for Proximity of Rulers to Ruled

In order to facilitate social cooperation, certain individuals and groups of persons are invested with governmental and rule-making authority. The institutionalization of governmental and rule-making functions may occur in the coordination of more or less specialized domains of human activity, say a chess club, gym, university, school, business, or agricultural cooperative; or it may occur in the coordination of broader domains of activity, such as the regulation of taxes and public finances for a city or region. Either way, anyone involved in the design or reform of governing institutions ought to be guided by a preference for the proximity of rulers and ruling institutions to the groups and activities over which they hold sway. Stated somewhat

differently, governance should, to the extent practicable, be conducted on a human scale, *close up* to the activities and persons being governed.

The preference for proximity, which expresses one important aspect of the principle of subsidiarity,¹⁸ may be expressed more precisely by the following principles of institutional design and policymaking: first, *epistemic and cultural* proximity: either rulers themselves or their trusted advisors and administrators should, where practicable, be sufficiently familiar with the domain of life they are governing, and sufficiently familiar with the language, priorities, culture, and needs of stakeholders, that they can make *well-informed decisions* and tend to the association's normative order without subsuming it violently under an alien order. Second, *affective* proximity: rulers should, whenever possible, have something *personally at stake* in the adequacy of their decisions and the success of the activity they are governing. For example, the leader of a small business, because of his affective bond with the project and his colleagues, cares about making decisions that lead his business to thrive, not fail.

Third, *spatial* proximity: rulers should ideally either reside in or frequent social and geographic spaces in which the activities they govern unfold. This enables their stakeholders to interact with them without excessive difficulty, hold them accountable, share information with them, and gradually build up bonds of trust and goodwill with them. Epistemic, affective, and spatial proximity of rulers and ruling institutions to the activities and persons they are ruling over entails an additional principle of institutional design, namely, the principle of *limited scale of units of governance*: the size of independent governmental units should, whenever possible, be small enough to permit frequent social interaction and familiarity between rulers and those subject to their rule.¹⁹

(iii) Bottom-Up Delegation and Control of Power and Authority

In order for a complex, geographically extended political community to be governed in ways that are adequately adapted to the evolving and heterogeneous needs of its plural constituents and stakeholders, it must have an articulated, multilayered structure that incorporates a mix of local and general units of governance, some territorial and others non-territorial in character. The challenge posed by governance under conditions of social complexity is to delegate governance functions upward to inter-associational bodies without giving up on the advantages of ruler proximity discussed in the previous section. There is no way to guarantee ruler proximity in all important social decisions. However, if we aim to make the delegation and control of power and authority occur, to the extent practicable, from the bottom up rather than

from the top down, we may be able to mitigate some of the harms of remote governance and preserve an important role for local organs of governance as shapers of social order.

It is reasonable for associations to submit certain dimensions of their life to external regulation. But how should this delegation of power be controlled? The natural presumption, once we grant the importance of associational integrity and autonomy, is that matters that predominantly touch the life of the group should be handled by its own internal decision-making and governmental procedures. One of the decisions that is likely to have a very substantial impact on the life of the group is the decision to delegate some aspects of its internal governance to an external governmental organ. It seems fair to assume that the persons best placed to decide whether such a decision is appropriate and beneficial for the group is the group itself and its membership, rather than any third party.

Of course, distinguishing between matters that are properly internal to an association, and matters that are not, is not an entirely straightforward task; nor is it an easy task to determine how a group may exert control over powers that have been conditionally transferred to an external government. Similarly, it is not always easy to determine when the preference for bottom-up delegation and control of power is trumped by some other overriding consideration, especially gray areas that do not reach the gravity of flagrant human rights violations or egregious criminality. Nonetheless, I hope these remarks will suffice to communicate in its essentials the preference for bottom-up delegation and control of power and authority, and its normative basis. This bottom-up vision of cooperation is not consistent with the presence of a sovereign actor that can exert its authority unilaterally over the whole social fabric, while it is suggestive of an intensely federated scheme of governance, in which public authority and power are robustly dispersed across a wide plurality of territorial and non-territorial actors.²⁰

The main purpose of this chapter has been to make the case, from a strictly ethical standpoint, for the desirability and indeed indispensability of a complex and differentiated social order, to advance some reasons for pessimism concerning the capacity of more or less centralized sovereign States to accommodate such complexity, and to gesture toward some elementary principles of a pluralist, bottom-up ideal of social cooperation more friendly to the complex and differentiated social ecology of human flourishing. This is not the place to lay out an account of civil order that satisfies the requirements of the freedom to flourish. But I hope the ethical and anthropological case I have made for affording a high degree of autonomy to local associations can further illuminate and justify the shared commitment to social and institutional diversity of neo-Aristotelian virtue theorists, English pluralists and their successors, political economists, and constitutional pluralists, as

well as providing some useful ethical orientation to those who must rise to the challenge of governing, or theorizing governance, under conditions of social complexity.

NOTES

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* Research Fellow, Institute for Culture and Society, University of Navarra, Spain.

2. A selection of works from this pluralistically inclined literature will be referenced in section 1, “Prevailing Arguments for the Value and/or Necessity of Social and Institutional Complexity.”

3. For a fuller statement of the implications of this re-valorization of complexity for the structure of political and social institutions, see Thunder (2024).

4. This is reminiscent of Berlin’s insistence (1990/1969) that the full panoply of human goods and values cannot all be fully reconciled or harmonized within a single way of life.

5. There is no uniquely valid definition of human flourishing. It is a basic concept that may be understood as interchangeable with full human development, or the full unfolding of human potential. I will discuss some of its key ingredients shortly.

6. By “rationally informed” choice, I mean one that is responsive to rational considerations such as the pros and cons, costs and benefits, goods and bads of choosing A or B. A choice completely blind to rationality does not enable an agent’s full and rounded development. What counts as a rationally informed versus uninformed choice will often be socially contested, but there are plenty of cases upon which there is broad social agreement.

7. An objectively valuable human end is one that is valuable not merely because the agent opts for it, but because it embodies some mind-independent dimension of human flourishing. That the content of objectively valuable ends may be socially contested does not mean they do not exist or cannot be correctly ascertained by a wise actor.

8. Even if one opts to live spontaneously or one decides to follow the path marked out by the traditions of one’s elders, one is implicitly accepting that this is, all things considered, a good or fruitful way to live.

9. Mill (1991/1859) (partly inspired by Alexander von Humboldt) has a view of human flourishing that is similar inasmuch as it entails the full unfolding of human potential.

10. Much more could be said about the socially embedded character of human flourishing. But I defer this discussion to a consideration, in the next section of the

chapter, of normative orders as action-guiding frameworks inscribed into the social order.

11. I believe our moral experiences and discourses presuppose that the human good is, in important respects, not determined exclusively by subjective perceptions, but also discovered and participated in. But I cannot unpack this argument in detail here.

12. The notion of a normative order is relatively open-ended, in the sense that while all normative orders are structured by common purposes, some normative orders may be evil or destructive, and others may only embody a very partial or highly selective dimension of human excellence.

13. For a much more detailed case against “neat,” all-encompassing social orders capable of tidying up inter-group conflict with solutions that are fully rationally justified, cf. Levy 2015 and Muñiz-Fraticelli 2014. The inevitability of inter-group conflict has much to do with the fact, pointed out by Isaiah Berlin, that diverse human goods can be in tension with each other or make conflicting moral and political demands.

14. But for one important contribution to this argument, see Scott (1999).

15. Here, I am concerned exclusively with the homogenizing effects of the rule of a sovereign State. The homogenizing effects of modern capitalist economies are significant, but they exceed the remit of my argument.

16. Of course, market forces are highly relevant too. But market actors do not have the advantage of a socially accepted right to collect involuntary taxes and coerce citizens into compliance with their policies.

17. For a more detailed discussion of the right of exit and some of its potential difficulties, see Kukathas 2003, chap. 3, “Freedom of Association and Liberty of Conscience.” I do not share Kukathas’s broader theory of freedom, which has a strong anti-perfectionist thrust (the “freedom to flourish” does not figure in his theory), but he offers a useful discussion of the right of exit.

18. I am indebted to Maria Cahill for this notion of a “preference for proximity.” See Cahill 2021.

19. For one practical application of this principle, see V. Ostrom, Tiebout, and Warren 1961.

20. A detailed discussion of federalism would take me beyond the remit of this essay. But for two useful treatments, see Elazar 1987 and V. Ostrom 1991.

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