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CHAPTER

37 Politicizing the Body: Property, Contract, and Rights

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Abstract

This article examines the politicization of the human body focusing on the way this issue was conceived in the West. The human body has long been used as a source of metaphor for political theorists and the very notion of body politic leans on the image of a unified and discrete entity that has commanding parts and obeying parts that may be robust or ailing, strong or weak. This article suggests that aside from political theory with a rich source of metaphor, the human body also serves as the nexus where political conceptions of the universal and the particular meet.

Keywords: [human body](#), [politicization](#), [body politic](#), [political theorists](#), [metaphor](#)

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1 Body as Metaphor

The human body has long been used as a source of metaphor for political theorists. The very notion of a “body politic” leans on the image of a unified and discrete entity that has commanding parts and obeying parts, that may be robust or ailing, strong or weak. One of the better known depictions of “the body political” in early modern political thought appears in Hobbes' *Leviathan* (1991), where he describes the sovereign in terms of a gargantuan “artificial man” whose body parts correspond to the various functions of government (see *Leviathan*, Introduction). Foucault drew attention to the central but problematic role of the body as metaphor in modern and contemporary political thought when he asserted that political theorists have yet to cut off the king's head (Foucault 1978, 88–9). Foucault's point is that theory lags behind history insofar as law and right continue to be caught up in the image of the power of a sovereign will commanding the body politic. Rather, the operation of contemporary relations of power “is not ensured by right but by technique, not by law but by normalization, not by punishment but by control” (Foucault 1978, 89). This view of power and politics involves a shift in metaphor from a unified and autonomous sovereign body to one based on complex networks of power relations characterized by decentralized, multiple, and dynamic connections. Foucault's influence on contemporary political thought may be figured in terms of a turn towards a contextual and materialist “history of bodies,” in contrast to a shifting “history of ideas” about “natural bodies” and “natural law.” On his view, human bodies as well as political bodies are themselves mutable historical entities (Foucault 1978, 152). I will return to this notion below.

As well as having supplied political theory with a rich source of metaphor, the human body also serves as the nexus where political conceptions of the “universal” and the “particular” meet. When grasped as part of nature, and so presumed to be governed by natural law, the human body is conceived as the basis for a universal conception of humanity and for those rights that all bear by nature. All share basic bodily needs—for water, food, shelter—and all are vulnerable—to violence, illness, or death. As Hobbes put it, in the absence of polity, “the weakest has strength enough to kill the strongest” and so all live in fear (Hobbes 1991, ch. 13). Guaranteed, if limited, political rights are preferable to unenforceable natural rights and so reason bids us to seek protection through enforceable covenants or contracts. Universal natural rights are thus transformed into particular historical and political rights whose precise form will vary from polity to polity, along with the attempts made by political theorists to justify them. For example, Hobbes' account of covenant, and the necessity for the absolute authority of the sovereign, do not square with Locke's account of the social contract as a limited device to protect the property that all should, but do not, enjoy by natural right.

At the same time that the body underpins universalism it is also the site and support for the moral uniqueness of each particular individual, insofar as the experience of the needs, desires, and vulnerabilities of individuals are irreducibly “private.” Cultural mores and traditions ensure that the “privacy” of individual experience is nevertheless imbued with specific local meanings that function to bind each individual to a particular community or polity. As Ignatieff has argued, “it is not the naked body we share in common, but the astoundingly different ways in which we decorate, adorn, perfume, and costume our bodies in order to proclaim our identities as men, women, members of this tribe or that community” (Ignatieff 2000, 41). In this way, the culturally and historically specific body is figured as the ground of difference as well as identity, of particularity as well as universality. “Humanity” is an abstraction, whereas individuals are always members of some particular group. Throughout the modern period, at least in the West, citizenship increasingly has become the means through which both the abstract rights of the individual and the need “to belong” to some particular group that recognizes such rights, are brought together. Different cultures (along with different religions) will conceptualize and distribute social and political burdens and entitlements to their members in a variety of ways. In this chapter the main focus is on the way in which these issues have been conceived in the West. (But see Sen (1997) for an account of some

similarities and differences between “East” and “West” in relation to conceptions of rights and responsibilities.)

2 Body and “Property-in-person”

A distinctive element in the history of early modern Western views is to conceive of (at least certain kinds of) human beings as possessors of natural rights, including the right to their own persons (understood by some to be equivalent to self-ownership). It is the possession of these rights that entitle individuals to enter a social contract in which largely ineffectual (because unenforceable) natural rights are exchanged for, or transformed into, protected political rights. Locke's theory of “property in the person” provides one such influential account. Locke's commitment to a Christian world-view is crucial to understanding his views on the moral status of human beings, along with the inborn capacity for reason (see Waldron 2002). Without rationality, people would be unable to discern the natural law that, ultimately, grounds political rights and social justice. Although Locke includes under the general term “property,” an individual's “life, liberty and estate” (see Locke 1967, *Second Treatise*, ch. 9), it is the narrower notion of “property in the person” that underpins this more general term. In chapter 5 of the same text he writes: “Though all the earth and all inferior creatures be common to all men, yet every man has a property in his own person; this nobody has any right to but himself.” From this natural title to one's own person flow rights to freedom, to possessions and, with the invention of money, the right to accumulate wealth. The admixture of an individual's labor with nature transforms what was held in common into private property, thereby “exclud[ing] the common right of other men.” The invention of money allows the extension of legitimate proprietorship to “the grass my horse has bit” and “the turfs my servant has cut” (Locke 1967, ch. 5, § 27, 28). Although God gave the world to all men in common, extensive proprietorship is thus reserved for “the industrious and rational” (Locke 1967, ch. 5). As Section 3 will show, some theorists take Locke's account of property to have had dire consequences for those whose capacities for “industry” or reason were deemed inferior or absent.

In contemporary political theory, various schools of thought have taken Locke's notion of “property in the person” in quite different directions. The otherwise opposed approaches of libertarianism and Marxism both base their arguments about legitimate and illegitimate entitlements to property on distinctive interpretations of Lockean self-ownership. Nozick, for example, finds justification for his libertarian principles of justice in Locke's theory of property (Nozick 1974). Marxist accounts of the injustice of exploitative wage-labor derive from the idea that the worker “owns” his capacity to transform nature through labor and so should be entitled to the products of that labor. In Nozick's case, Locke's theory of property is used to argue *against* the redistribution of social goods because this would involve the theft of what rightly belongs to those who have produced them. In the Marxist case, only the socialization of (non-human) property can prevent the exploitation and alienation of the wage-laborer who, in a capitalist economy, owns nothing but the capacity to labor. More recently, G. A. Cohen has drawn attention to the problems associated with the very idea of self-ownership, and the role it plays in contemporary capitalist societies. He argues that, if the values of equality and freedom are to be realized, we need to move beyond the idea of self-ownership. Instead, we need to develop a new ethos of “mutual service” amongst citizens in the economy as well as in political relations (Cohen 1995). Although the details of these contemporary debates cannot be treated adequately in this chapter,¹ the issue of property in the person will reappear in a different context in the following section.

C. B. Macpherson has pointed out that “Locke's deduction starts with the individual and moves out to society and the state” (Macpherson 1962, 269). On his view, the “possessive individualism” of early modern liberal political thought failed to take any account of the social conditions and relations necessary in order for such conceptions to appear plausible.² Part of the problem is that Locke, and his contemporaries, paid

little attention to the ways in which the rights and property of “possessive individuals” depended on the subordination of certain others (women, the propertyless, the colonized, the enslaved). The very coherence of the notion of owning one’s “person,” arguably, depended upon the existence of others who were politically constituted as the property of someone *other* than his or her own “person.” Distinctions between individuals—of sex, race, class, age, ability, and the like—pose a series of problems for the modern conception of the freely contracting individual. Who may enter the contract? How are rights and obligations to be distributed across the political body? Who is to count as a person? Are all “status” identities to be abrogated in favor of the modern “abstract individual” and “contract?”

3 Body as Source of “Status:” The “Somatic Norm”

Many feminists have argued that Western political theory is imbued with a masculine bias insofar as the notion of the “individual” implies a norm that favors white, propertied, Western men (see, for example, Young 1990; Phillips 1993; Benhabib 2003). But cross-cultural work shows that even in relation to those who have been marginalized by Western political theory (for example, Third World peoples, indigenous groups), the pattern of a privileged masculine norm that excludes women is repeated *within* these groups. So the universal category, “individual,” is not only particularized from culture to culture, but *intracultural* designations also construct some bodies as “naturally” subordinate or inferior: for example “women” as opposed to “men”. The category “person” suffers from related problems. For example, English law did not recognize all human individuals as “persons.” The law of coverture meant that women did not count as “persons” at law. These exclusions are important to the issue of property in the person because of the pivotal role that notion has played in grounding rights claims and in the formation of juridical and other institutions. It is only those who enjoy legally and politically sanctioned rights over their “persons” who are entitled to freedom. In Sir Henry Maine’s famous words, the modern period inaugurated a new “movement from status to contract” (Maine 1917, 100). But did it? For those bodies that fell outside the norm the response to this question must be equivocal. The abstract individual, assumed by modern contractual society, is not a posture that all may easily adopt (Gatens 1991, 34–47). Sexual and racial distinctions—widely perceived as differences in natural kinds—appear to be status identities that function to predetermine one’s place in the polity.

In *The Racial Contract*, Charles Mills (1997) has employed the apposite term “somatic norm” to convey the way in which bodies may be normalized, excluded (or included as different, but inferior), within racist, sexist, and colonial contexts. Mills builds on Carole Pateman’s work in *The Sexual Contract* (1988). In this work Pateman argues that the main institutional ties of modern civil societies, namely, citizenship, employment, and marriage, “are constituted through contract” (Pateman 1988, 180). She reads Locke’s quarrel with Sir Robert Filmer over whether patriarchal rule is conventional or natural in a novel and provocative way. Locke’s defeat of Filmer’s “natural” (or divinely ordained) patriarchalism, she argues, should not be taken as the definitive defeat of patriarchy itself. Rather, the “sons” defeated the “fathers,” thereby instituting *modern* patriarchy, which is fraternal in form. The social contract, which is supposed to theorize the advent of modern civil societies, tells only part of the story. Modern contractual society, Pateman argues, cannot be understood until the sexual contract is exposed as the necessary underside of the fraternal social contract. The sexual contract provides one missing part of the story and exposes the dependence of modern political and civil society on the subordination of women as wives and mothers in the private sphere. Her thesis puts under scrutiny terms central to modern political theory: “property in the person,” the “individual,” “freedom,” and “contract” are each subjected to a rigorous analysis. The importance of *The Sexual Contract*, for present purposes, lies with its proffered critique of the notion of property in the person and its putative role in securing the freedom of the “modern” individual.

Pateman acknowledges the important work of previous socialist and feminist political theorists, as well as the paradoxical nature of socialist and feminist demands for rights. In the modern period such rights, unavoidably, are based in the questionable notion of self-ownership that is, in turn, often associated with autonomy. How are women or workers to struggle against their subordination without arguing for the right to the “possession” and control of their bodies and capacities (Pateman 1988, 13)? However, the endorsement of the modern “political fiction” of property in the person is to the ultimate detriment of women and workers. In spite of Locke's claim, property in the person does not and cannot underpin the freedom of the individual. Rather, this political fiction is what makes possible specifically modern, contractual forms of subjection: “[c]ontract always generates political right in the form of relations of domination and subordination” (Pateman 1988, 8). As she repeatedly stresses, contract in its modern form typically is an exchange of obedience in return for protection (Pateman 1988, 61–2, 137–8). The worker is subjected to the capitalist through the wage contract and women are subjected to men through the marriage contract.³

p. 684 There is a further crucial feminist dimension to Pateman's account. The fiction of property in the person, she maintains, was never intended to be applicable to women. Women's equivocal inclusion in civil society is not through citizenship or labor contracts but rather through the marriage contract which constructs her as “civilly dead,” that is, as deprived of the legal status of “person.” Although the “natural” powers of the father over the sons historically gave way to conventional relations between brothers in the fraternal polity, the power of men over women and the family retained its supposed foundation in nature. Unlike men, women are incorporated into civil society not as “persons,” or individuals, but as *women* (Pateman 1988, 181). Women's bodies lack the necessary features of the abstract individual and so women cannot enter civil society on the same footing as men. Thus, the sexual contract becomes the device through which women's bodies, and their capacities, become politicized. Ironically, this politicization is achieved through the “naturalization” of women's subjection to men. On the early modern contractarian view, women are constructed as being “naturally deficient in a specific *political* capacity, the capacity to create and maintain political right” (Pateman 1988, 96). The politicized female body—paradoxically politically constituted as part of nature; paradoxically included in and excluded from civil society—is neither self-owned nor capable of providing the basis for women's freedom to contract on equal terms with men. Although Pateman does not conclude that sexual difference is therefore a status distinction that contractual society is impotent to transform, the point stands that sexual difference remains problematic from the perspective of contemporary conceptions of self-ownership that were considered in Section 2.

Why should the history of conceptions of “rights,” “persons,” and “contract” matter to contemporary political theory? Women are no longer denied the status of persons at law, so why should past ideas and institutional arrangements be of interest apart from their value to the history of ideas? Pateman argues that inattention to the historical contexts in which certain political conceptions took hold can blunt the critical edge of contemporary political theorizing. Cohen's critique of self-ownership, for example, is ineffective against contractarianism because he fails to note the difference between the concepts of “property in the person” and “self-ownership.” An adequate critique of libertarianism (or contractarianism) requires attending to the conceptual, legal, and moral distinctions between self-ownership and property in the person. Two of the major institutions of contemporary contractual society—employment and marriage—“developed in tandem” and crucially depended on the “political fiction” of property in the person for their development (Pateman 2002, 32–4). As Pateman writes: “When the individual is conceived as an owner of property in the person, rights are seen in proprietary terms. The major mark of private property is that it is alienable, so it is legitimate to alienate the right to self-government, at least in the ‘private’ sphere of economic enterprises” (Pateman 2002, 49). Contractarianism thus creates relationships where the fiction of property in the person allows the illusion that a person's capacities and skills can be separated from the “person.” The ability to labor, in other words, is falsely conceived as able to be “hired out” without compromise to the integrity of the individual. On Pateman's view, contemporary debates over self-

p. 685

ownership have been high-jacked by moral philosophy with the result that such debates fail to note the political problem posed by contemporary marital and economic relations, namely that the “marriage market” and the labor market are markets in property in the person. These markets, which deal in the “renting of persons,” are incompatible with a genuinely egalitarian and democratic understanding of the third major social institution: citizenship. The fiction of property in the person, along with the alienability of proprietorial rights, is what allows relationships of domination and subordination, in the “private” spheres of family and employment, to appear legitimate. On this view, attending to the concept of property in the person, and its historical and institutional vicissitudes, exposes why contractarian society is incompatible with democratic citizenship.

Like Pateman, Mills insists on the continuing relevance of past political constructions of bodies that were marked as “different.” Reworking Pateman's argument on the sexual contract, he states that the racial contract is a contract between whites for the global subordination of non-whites. The modern political story of freedom, contract, and consent is not a story for, or about, those whom it racialized as inferior. It is white men who leave the (hypothetical) state of nature and it is women and non-whites who (actually) come to be identified with nature, thus justifying their political subordination. In a manner that resonates with much feminist political critique, Mills argues that in the racialized polity non-whites are conceptualized as “*carrying the state of nature around with them*, incarnating wildness and wilderness in their person” (Mills 1997, 87; emphasis original). Like the sexual contract, the racial contract depends on “a politics of the body:” “[t]here are bodies impolitic,” and such bodies “are judged incapable of *forming* or fully *entering into* a body politic” (Mills 1997, 53; emphasis original).

Mills' account of the white male body as a “somatic norm,” implicit in modern political theory, shows the dependence of the free abstract individual on excluded others in at least two senses. First, as Orlando Patterson's work suggests, the Western political conception of freedom derives from the phenomenon of slavery: conceived as subhuman “the slave establishes the norm for *humans*” (Mills 1997, 58; emphasis original). Second, the somatic norm allows the positing of race as a biological or natural category through its concealment of the sociopolitical construction of the norm. Put differently, “whiteness is not really a color at all but a set of power relations” (Mills 1997, 127). On Mills' account the racial contract does not subject only bodies to a norm but also space itself (Mills 1997, 41–3). Space and sex and race are “normalized” by white fraternal patriarchal bodies politic. The private sphere, colonized land, or civil society, are not neutral but politicized spaces that serve to confirm the status of the “impolitic” or “politic” bodies of those who occupy them.

p. 686

It is significant that neither Pateman nor Mills see the abolition of sexual and racial discrimination to lie with women and racialized groups achieving self-ownership. For Pateman, this would involve the ultimate commodification, alienation, and exploitation of all aspects of human life. As her criticisms of the prostitution and surrogacy contracts make clear, the freedom to contract in such contexts would socially entrench, and so further legitimize, the destructive political fiction of property in the person (Pateman 1988, ch. 7). Both theorists gesture beyond conceiving persons in terms of property toward what they see as a more sustainable and equitable form of individuality that values autonomy conceived in terms other than self-ownership.

However, in contrast to Pateman, Mills does not see contract, as such, to be the central problem. On this point his thesis is closer to Susan Moller Okin's account of “gender” than to Pateman's account of sexual difference (Mills 1997, 136–7, n. 9). Just as Okin envisions a future in which gender is irrelevant to social and political status (Okin 1989), Mills aims “to eliminate race ... altogether” (Mills 1997, 126–7). Again unlike Pateman's analysis of sexual difference, Mills understands the racial contract to be an historically contingent organization of bodies that could have been otherwise. Furthermore, his “demystification” of the racial contract, which he presents as a kind of “*ideologiekritik*” (Mills 1997, 129), ultimately aims at the “voluntarization” of race (Mills 1997, 126–7). I will return to this issue in the following section.

More recently, Nirmal Puwar has taken up the notion of the somatic norm to show how the specificity of raced and sexed embodiment constrains one's ability to occupy putatively "neutral" public space. Building on the work of both Pateman and Mills, she presents the body as a thoroughly politicized entity that may be both enabled and constrained through the social practices and public spaces that help constitute it. By analysing contemporary examples of "bodies out of place" (e.g. black bodies and women's bodies in parliament) Puwar shows "the ways in which bodies have been coupled with and decoupled from specific occupational spaces" (Puwar 2004, 78). Puwar's research casts new light on the issue of the universal and the particular. The particularity of the purportedly "universal" body of the social contract theorists is put under the spotlight in a way that emphasizes the constructed privilege of the "unmarked" white male body and its ability to naturalize its exclusive right to be master of political spaces.

4 Body and "Affect"

p. 687

It may be thought that the notion that the body is constructed, normalized, or "materialized" in different ways across history and culture introduces a kind of contingency into political *praxis*. If subjects are constructed and reconstructed across space and time, what is to prevent a radical voluntarism with regard to political identities? If identity is understood to be contingently constructed, what is to prevent individuals from "choosing" new identities? Is it this notion of "choice" that underpins Mills' idea of "voluntarizing" race? When Okin advocates the abolition of gender is she suggesting that this could be achieved through choice? Are the historically and politically constituted privileges of "whiteness" or "maleness" able to be cast off by mere acts of will? This question forms the focus of recent work on the body, affect, and "micropolitics." If the Foucauldian approach to identity formation as an ongoing process that involves innumerable micropolitical power relations is granted, then work on and through the body, as a form of political *praxis*, seems viable, but such work cannot be reduced to a simple-minded voluntarism.

Citing Nietzsche and Foucault as inspiration, William Connolly has stressed the ethical and political importance of micropolitical (as well as macropolitical) *praxis* through what he calls the "relational arts of the self" (Connolly 1999, 143–53). Although this "art" cannot be reduced to mere acts of will, it is a political practice open to those prepared to cultivate their critical capacities and reflect on the means through which identity is constructed and reconstructed. Recommending an "ethos of engagement" with different others, characterized by "generosity and forbearance," Connolly endorses "[w]orking on yourself in relation to the cultural differences through which you have acquired definition. Doing so to render yourself more open to responsive engagement with alternative faiths, sensualities, gender practices, ethnicities, and so on" (Connolly 1999, 146). Connolly does not limit his analysis to intersubjective relations. He also notes the need to work on the *intrasubjective*, or the *infrasensible* self, arguing that the "cultivation of sensibility" is necessary if we are to alter the structure of habitual affects as well as the cognitive self (Connolly 2002, 129–37).

p. 688

Whether such practices are vulnerable to accusations of self-indulgence on the part of the politically privileged (Connolly argues they are not), or to criticism on the grounds of presenting an implausible political voluntarism, are live questions in the work of contemporary theorists of "body politics" (see, for example, Rothenberg 2000). One response is to point out that the contingency of the histories that have constructed present identities need not imply that such identities are therefore arbitrary. Furthermore, past historical contingencies may come to constitute present material necessities (an idea that should be familiar to theorists of both "path dependency" and "genealogical analysis"). This view of things, however, does not amount to the supposition that a Foucauldian approach to the materiality of power disallows human agency (Patton 1998). Rather, a Foucauldian approach may reveal those aspects of contemporary subjectivity that are unstable or aporetic thus providing possibilities for ethical and political experimentation and transformation. Such experimentation cannot be reduced to political voluntarism since it involves

attentiveness to and careful genealogical analysis of the possibilities for change that are immanent to the “present.”

5 Beyond Self-ownership? Interdependence and Autonomy

p. 689 In Sections 3 and 4 the notion of the historical, social, and political construction of certain kinds of body through power relations was considered. This contemporary micropolitical approach is far removed from the assumptions of the modern contractarian theorists where bodies, rights, and law were conceived in ahistorical, naturalistic terms. Human history does not float around bodies, temporarily covering them with the attire of this or that period; rather, the capacities, form, and very materiality of the human body are themselves historically configured. Yet, in these contemporary accounts, the body continues to play a liminal role in the articulation of the distinctions between particularity and universality; autonomy and dependence; and identity and difference. Arguably, however, contemporary “body politics” theory is better equipped to show how these distinctions need not lead to irresolvable paradox. One is neither simply an historical construction nor an ahistorical self-owning individual. Rather, one's autonomy, identity, and particularity are always inextricably bound up with specific historical, social, and political practices. Moreover, relations of interdependence are universal (in the sense of being natural to the human condition). On this approach it is not a question of “either/or” (identity or difference) but rather of “and” (for example, conceiving of identity through difference, or of autonomy through interdependence). This view is particularly prevalent in much contemporary feminist political theory.⁴

p. 690 An example of this type of approach is Martha Nussbaum's work on human capabilities that, while presenting a universalistic theory of human being and entitlement, nevertheless attempts to be attentive to the particular cultural contexts in which human beings invariably dwell. Nussbaum moves away from the association between autonomy and self-ownership characteristic of much contemporary political theory. Although there is debate over the ultimate success of the capabilities approach, and the claim that “certain human abilities exert a moral claim that they should be developed” (Nussbaum 2000, 83), one element of its exposition is especially pertinent here. The central human functional capabilities that Nussbaum lists (see Nussbaum 2000, 78–9) are described as “combined capabilities.” A person's ability to labor, for example, is not understood as a “given” property of that person. Rather, each “internal” capability (for example, to work, or to reason) of any human being always assumes the presence of appropriate “external” conditions for its realization (Nussbaum 2000, 84–5). And these external conditions will necessarily affect the particular way in which any given “internal” capability will be expressed or realized. Human capabilities are inevitably a combination of latent human capacities and specific economic, cultural, and political circumstances. For example, the capacity for autonomy, or self-determination, is dependent on appropriate social contexts, certain kinds of ongoing relations with others, and so on, if it is to be actualized and maintained. But this does not imply that each human capability will be realized in precisely the same way in all contexts. The particular realization of a universal human capability necessarily will be culturally specific. This is one consequence of closely tying the realization of the internal capabilities of an individual to the specificity of external conditions, which include that individual's cultural context. It also highlights the way in which any human power, ability, or capacity is necessarily relationally realized. Any given capacity of an individual therefore—to labor, to create—cannot be viewed in terms of that individual's “personal property.” I cannot claim “ownership” of my self or my capacities precisely because they require a social and cultural context before they can be developed or expressed. In spite of her preference for “capabilities talk” rather than the more contentious “rights talk,” Nussbaum concedes that “the best way to think about rights is to see them as combined capabilities” (Nussbaum 2000, 98; emphasis original). Although Nussbaum does not put it this way, her account may be viewed as a relational, embodied, and historically contextualized account of rights. Moreover, it is an account that shows why political theory needs to go beyond the notion of self-ownership.

6 Rights and Citizenship

It was suggested in Section 1 that notions of the universal and the particular are increasingly brought together in contemporary political life through practices of citizenship. Rights are neither “natural entitlements” nor alienable bits of “personal property” but rather denote specific historical and cultural ways of regulating human interactions. Conceived in this manner, the notion of “human right” is not at odds with the materialist, historical, and embodied approach, outlined above. However, it does suggest that if any individual’s “human rights” are to be secure then the rights of all individuals must also be secured. Human rights, to be effective, must be globally distributed. Some political theorists argue that the growing multidimensional (ecological, economic, political) interdependence of all the cultures and nations of the world, calls for a universal system of human rights to be underwritten by cosmopolitan governance (e.g. Held 2002). However, if this project is conceived in terms of the imposition of a fixed “list” of “universal rights” that must be implemented uniformly in every cultural and political context, then it will fail (Gatens 2004). Such a plan would directly contradict the previous analysis of the materiality of the body and the powers through which it is constituted in specific times and places. It acknowledges the ideal of achieving universal justice but fails to attend to the variety of contexts in which justice may be realized. Moreover, ideals of global justice run the risk of continuing a politics of Western cultural imperialism. ↪ Rather, political theory and *praxis* must acknowledge the ongoing and open-ended nature of negotiations between different historically constituted identities and polities. For this reason, national or local practices of citizenship are likely to remain the crucial mechanisms through which rights are implemented (or struggled for). To suggest this is to acknowledge cultural difference as a deep, historical, and embodied difference rather than a superficial or merely “ideological” difference.

There is another reason to exercise caution in relation to the idea of a fixed list of universal human rights implemented through “cosmopolitan citizenship” and regulated by global governance. Hannah Arendt’s post-Second World War reflections on those bodies that fell outside the protection of any particular body politic provide sombre materials for considering the complex questions raised by the politics of “rights talk,” self-ownership, and “the body” today. Universal human rights that have been “merely proclaimed” but not “politically secured” are of no use to a human being once she has lost her polity and been reduced to a naked body (Arendt 1968, 447). Ironically, the most intensely politicized bodies are often those that are denied any secure specific political membership. Arendt’s reflections on “the decline of the nation-state and the end of the rights of man” (Arendt 1968, 267–302) act as a sharp reminder to political theorists not to lose sight of those actually existing human bodies that extant bodies politic treat differentially: exploiting, excluding, even destroying some, and all this, often enough, for the purported protection of those who are deemed “proper” citizens of “properly constituted” polities. As Benhabib reminds us: “No human is illegal” (Benhabib 2004, 221).

To become a human being “in general” is “to belong to the human race in much the same way as animals belong to a specific animal species:” it is to be reduced, in other words, to a naked body (Arendt 1968, 302). Such reduction involves “the loss of the entire *social texture*” into which all are born and which provides each with “a *distinct* place in the world” (Arendt 1968, 293; emphasis added). Being human is not (only) about being a member of a genotype or species; it is above all about membership in some particular culture, locatable in place and time. “The survivors of the extermination camps, the inmates of concentration and internment camps, and even the comparatively happy stateless people could see ... that the abstract nakedness of being *nothing but human* was their greatest danger” (Arendt 1968, 300; emphasis added).

Citizenship, the right “to belong,” and stateless persons raise urgent questions for political theory today. In the absence of robust institutional ↪ embodiment, rights quickly reduce to “mere proclamations” and the citizen to “a naked human body.” The critiques of the rights-bearing individual of contractarianism considered here offer a different vision of rights and their importance. Above all, rights create relationships

between human beings. They manage and distribute human powers and capacities for action and for being acted upon. Understanding human being and human societies in relational terms draws attention not only to the complex and always particular ways in which we *become* human, but also to what we must do in order to preserve our humanity.

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Notes

- 1 See Will Kymlicka (2002, chs. 4 and 5) for a very clear and comprehensive account of the complex role of Lockean notions of property in both libertarian and Marxist accounts.
- 2 Admittedly, Macpherson's views on modern political thought have been widely disputed. See, for example, Tully (1993). However, his general argument about "property in the person" has had a marked influence on Pateman's conception of property in the person (see Section 3).
- 3 According to Pateman, modern contractarianism "displaces" the sexual contract onto the marriage contract. "Only the marriage contract—the contract into which women must enter, women who lack the standing of owners—includes the explicit commitment to obey. If the promise of universal freedom heralded by the story of an original contract is not to appear fraudulent from the start, women must take part in contract in the new civil order" (Pateman 1988, 181).
- 4 Many examples of this kind of feminist work in political theory come to mind. For example, Kittay (1999) on dependence and independence; Nedelsky (1993) on conceiving rights in relational terms; Friedman (2003) on relational autonomy; and Hirschmann (2002) on freedom.