

# Courtney Jung

## *Why liberals should value 'identity politics'*

Interviewed on the fortieth anniversary of the 1963 March on Washington, civil-rights activist Eleanor Holmes Norton was asked why the only woman to take the podium on the day of the protest was Mahalia Jackson, who sang “The Star Spangled Banner.” Not a single woman, among the many people who spoke that day, was solicited to address the audience of protestors who had come to Washington to demand voting rights for African Americans. From the vantage point of 2003, the interviewer was curious how the organizers of a civil-rights march could have overlooked such obvious sexism in the midst of their fight against racism. Norton replied, “Well, shame on us! This was before the women’s rights movement, and we didn’t even realize, we did not even recognize,

this injustice that was being done. We did not even think about it at that time, although as soon as three years later we were certainly aware of that type of thing.”<sup>1</sup>

As Norton’s remark reveals, a political identity does not arise spontaneously. Instead, by using categories of race, gender, and class to define an unequal distribution of rights and privileges, liberal democratic societies compel some of their members to identify with others of a similar ethnic, sexual, or economic character. In general, only those group definitions that have been used to restrict access to power will become self-conscious and gain salience, in the act of contesting – or protecting – the exclusions that constitute them.

Thus, movements form around issues of gender, race, or class, not because people feel a need to express a primary commitment to such shared identities, but rather because these categories have regulated the distribution of the goods of a liberal society. The emergence of new political identities therefore signals some shortcoming of the democratic system. We should think of such mobi-

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<sup>1</sup> Eleanor Holmes Norton, interviewed by Tavis Smiley, *The Tavis Smiley Show*, National Public Radio, August 25, 2003.

lizations, as Lani Guinier and Gerald Torres suggest, as a miner's canary, warning us of the poisonous gases of entrenched power threatening the health of our democracy.<sup>2</sup>

In this essay I explore the implications of constructivist theories of identity formation for liberal democratic politics. These theories pay particular attention to the origins and characteristics of political identities, and therefore imply a particular set of obligations and opportunities for liberal democratic societies. On one hand, democrats are obliged to engage in democratic deliberation with so-called identity groups. Because of the way the state itself is implicated in forging such groups, through its exclusions, the public sphere must be open to challenges and contestations that have the potential to expand or transform the scope of the public sphere itself. This cycle creates opportunities for democratic legitimation and holds out the promise of democratic renewal.

**I**dentify is not only a possible ground of politics; it is also an effect of politics.

2 Lani Guinier and Gerald Torres, *The Miner's Canary: Enlisting Race, Resisting Power, Transforming Democracy* (Cambridge, Mass.: Harvard University Press, 2002). Not all politically salient identities are emancipatory, progressive, or sympathetic to democrats. Not all people are seeking simply inclusion for a group that has been marginalized. Many Afrikaners in South Africa, for example, have a highly developed Afrikaner political identity that was organized, in the apartheid era, around maintaining privilege and the boundaries of existing exclusions. This example corroborates the underlying premise, however, that it is political contestation over exclusions and inclusions that produce political identities. Democracy implies that Afrikaners have as much right to try to maintain their privilege as others have to contest it. Critical liberalism insists on providing the grounds that will enable the others to contest it.

People are attached to their race, gender, and ethnicity to the extent that the state has inscribed certain referents – such as skin color, language, beliefs, and practices – as important markers of differential access to resources. Therefore, we can no longer be content to treat categories like race and ethnicity as exogenous to the political process – the spontaneous result of a universal, but not readily analyzable, need for group membership. Instead, we should delve into the role institutions, discourses, and policies play in producing the terms of political contestation.<sup>3</sup>

Constructivist theorists of identity formation focus on how institutions, in particular, structure incentives and lived experience in ways that make some affiliations seem more natural, useful, or significant than others. Take, for example, 'the English working class.' E. P. Thompson, a constructivist ahead of his time, argued that working-class consciousness did not arise simply from the fact that millions of people were suddenly working together on the factory floor. Rather, working-class identity developed in tension with the limits of nineteenth-century British democracy, which used class as a boundary of citizenship.<sup>4</sup>

Contemporary constructivists largely follow Thompson's model, for example,

3 Anthony Marx, *Making Race and Nation: A Comparison of the United States, South Africa and Brazil* (Cambridge: Cambridge University Press, 1998); Mahmoud Mamdani, *Citizen and Subject* (Princeton, N.J.: Princeton University Press, 1996); Courtney Jung, *Then I was Black* (New Haven, Conn.: Yale University Press, 2000); Courtney Jung, "The Politics of Indigenous Identity: Neoliberalism, Cultural Rights, and the Mexican Zapatistas," *Social Research* 70 (2) (Summer 2003): 433 – 462.

4 E. P. Thompson, *The Making of the English Working Class* (New York: Alfred A. Knopf, Inc., and Random House, Inc., 1963).

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when H. Leroy Vail describes the development of tribalism in southern Africa, or when Mahmoud Mamdani explains the role of colonialism in creating ethnic identities, or when Anthony Marx underscores the impact of state formation on the mobilization of racial identity.<sup>5</sup> Whereas essentialists construe identity as an effect of a group's internal attributes – it is a particular set of traditions that makes Zulus Zulu and not Shangaan – constructivists look to external conditions – the colonial strategy of indirect rule or the apartheid-era establishment of ethnic homelands – to explain the boundaries between Zulu and Shangaan. Here, the strength of constructivism lies in the fact that it can account for change as well as persistence – not to mention degrees of variation, to which essentialist theories are virtually blind.<sup>6</sup>

Another, less often noted strength of constructivism is its capacity to explain not only the rise and fall of one particular identity, like Zuluness, but also the move from one to another, like from a peasant to an indigenous identity. Because individuals are potentially members of a variety of groups, including but not restricted to those defined by ethnicity, race, gender, and class, they have some choice – limited, more or less, by the rigidity of the structures they are operating within – in how they identify politically. Different groups afford distinct alliances, strategies, and arguments – and personal or tactical reasons may orient them toward one identity over another. In the 1990s, for instance, people in many parts of the world who had identified primarily as peasants through

most of the twentieth century became 'indigenous people.' The shedding of class identities in favor of ethnic identities resulted primarily because the peasant identity had lost political ground.

In recent decades, democratization has had a distinctly neoliberal edge, with important implications for the alignment of political cleavages in new democracies. The neoliberal commitment to bolstering free markets has undercut the redistributive politics of class, prompting activists to develop political identities based on culture instead. Because even as neoliberal states disavow their obligation to provide the social and economic benefits of citizenship, thus shrinking the leverage of class-based demands for land, agricultural subsidies, or a living wage, some have begun to extend new cultural rights to previously marginalized populations.

This contemporary movement toward cultural identity illustrates what is actually at stake: political legitimacy, and the ability therefore to make credible claims on the state and in the international community. This view of claim making, as intensely political, differs significantly from liberal accounts. John Rawls argues, for example, that the right to make claims inheres in citizenship in a liberal society, that citizens can "regard themselves as self-originating sources of valid claims."<sup>7</sup> Only slaves "are not counted as sources of claims" because they are not free.<sup>8</sup>

What liberals imagine as prepolitical and automatic, however, is in fact deeply political. What qualifies as a language of

5 Leroy Vail, *The Creation of Tribalism in Southern Africa* (Los Angeles and Berkeley: University of California Press, 1991); Mamdani, *Citizen and Subject*; Marx, *Making Race and Nation*.

6 Jung, *Then I was Black*.

7 John Rawls, "Justice as Fairness: Political Not Metaphysical," *Philosophy and Public Affairs* 14 (3) (Summer 1985): 242.

8 *Ibid.*, 243.

claim making is hotly contested precisely because new languages constitute new political actors in ways that may threaten old ones and challenge the very terms of the existing political debate. Citizenship alone is not a sufficient source of claims.

The politics of identity is a struggle to achieve a political voice. Building political identity is an important precondition of democratic political engagement. One's ability to get oneself heard in a democratic system crucially depends on whether one can claim membership in a group with preexisting political weight, or forge a group identity with new political weight. In contemporary politics, race, gender, and ethnicity have developed such a weight.

In short, all politics is identity politics. Social categories develop political salience to the extent that they have been used to mark the boundaries of inclusion and exclusion. Markers like race and class are politicized in the struggle to challenge, or to protect, such boundaries. Not only are political identities constructed, but they are formed through interaction and negotiation with the state, developing resonance in particular historical and social contexts. Governments have a direct hand in shaping the contours of political contestation and in generating the terms of political deliberation.

In the main however, democrats take a dim view of so-called identity politics. Liberal democrats worry about the extent to which democracies can accommodate competing cultural claims, and they worry about their obligations to do so. In particular, they are concerned because they believe that cultural claims represent a fundamental demand for the recognition of human identity, therefore engaging a deeper level of commitment

than other claims. As such they impose greater obligations on the democratic state, and should be protected from democratic politics. For others, they appear to pose a greater threat, as democratic institutions struggle to process and accommodate the deeply held but incompatible cultural commitments of their citizens.<sup>9</sup>

Some theorists of radical democracy, like Wendy Brown, believe the focus of identity groups on their own injuries prevents the formation of a positive political agenda with transformative potential.<sup>10</sup> Social democrats are concerned that identity groups fracture opposition, thwarting the creation of an alliance around issues of redistribution. For Todd Gitlin, identity politics portends the twilight of common dreams. Deliberative democrats, like Seyla Benhabib, are concerned that making claims from the standpoint of a particular perspective undermines the drive to consensus and "enlarged mentality" that should be the basis of genuine deliberation.<sup>11</sup>

There is an interesting convergence among these theorists on class as the privileged interlocutor of politics. Shunning arguments made from other perspectives such as ethnicity and religion,

9 John Rawls, *A Theory of Justice* (London: Oxford University Press, 1971); Stephen Macedo, "Liberal Civic Education and Religious Fundamentalism: The Case of God Versus John Rawls?" in John Elster and Rune Slagstad, eds., *Constitutionalism and Democracy* (Cambridge: Cambridge University Press, 1988); Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, Mass.: Harvard University Press, 2001).

10 Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton, N.J.: Princeton University Press, 1995).

11 Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton, N.J.: Princeton University Press, 2002).

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liberals allow those for redistribution to enter the public sphere of deliberation. Rawls, for example, favors class because the just allocation of resources can be the topic of reasonable discourse, subject to principles that all could agree to behind the veil of ignorance, which affords individuals a universal perspective. Social democrats like Gitlin believe class is the fundamental social and political cleavage off of which others are read. To organize on the basis of race or gender, following Marx, is not much more than false consciousness. Others seem to privilege class for more pragmatic reasons: Perhaps class is a broader church or can marshal a more trenchant critique. Class is not necessarily better; it simply works better.

Such theorists misunderstand, or perhaps fail to take into account altogether, the methodological implications of constructivist theories of identity formation. Class, like race, ethnicity, and gender, originates in the ways that states organize access to power. While so-called identity politics is often juxtaposed in contradistinction to class, the politics of race and ethnicity act instead as a strategically distinct but structurally analogous way to make political claims.

For this reason it is dangerous to reify the terms of debate around a single category, such as class, while closing off other points of potential contestation, such as race, gender, sex, and ethnicity. Each of these forms of identity stands in a particular relation to power and contests distinct forms of oppression. Each offers different discursive and organizational strategies and points of political access. Yet they all challenge the boundaries of liberal democracies, forcing us to confront the arbitrary and often violent ways we police the cozy precincts of belonging.

Taking these implications seriously leads toward what I call ‘critical liberalism’ – a theory of liberalism that pays attention to the importance of identity as a condition of political voice, the difficulties inherent in achieving identity, the emancipatory potential of rights, and the role of identity proliferation in renewing the promise of democratic governance.

Critical liberalism starts from the premise that borders around democratic citizenship have been erected and maintained in ways that are not democratic.<sup>12</sup> What is more, democratic states have failed to locate any principle that can sustainably legitimate the boundaries of inclusion and exclusion. Attempts to do so on the basis of class (property ownership), gender, and race have been exposed as arbitrary and pernicious by movements that formed around these identities – the working class, feminists, the Black Consciousness Movement. By challenging the conditions of citizenship, people marked by class, gender, and race have revealed the illegitimate edges of democratic government and forced democratic societies to renew their commitments to participation and deliberation.

Ethnic groups have also begun to challenge the legitimacy of culture as a boundary of democratic statehood. They do so by demanding representation and citizenship, local self-government, bilingual education, and cultural recognition. Although it takes different forms in different countries, the politics of indigent rights is mainly about inclusion. From the perspective of critical liberalism, the demands of Turkish guest work-

12 Ian Shapiro and Casiano Hacker-Cordón, eds., *Democracy's Edges* (Cambridge: Cambridge University Press, 1999).



ers in Germany and Muslims in France push in the same direction and have the potential to extend, and relegitimate, the boundaries of citizenship and deliberation in those countries.

At the same time, ethnic groups have also deployed the idea of cultural self-determination to push in the other direction, toward autonomy from the states that have excluded them. While this may be a valid move from a historical perspective – some groups may have suffered such state-sanctioned oppression that they have no hope of achieving parity or pursuing happiness within the existing state – no principle renders culture a more legitimate boundary of democracy than race, gender, or class. Thus, demands for cultural self-determination are destined to reproduce the arbitrary boundaries that critical liberalism challenges.

Nevertheless, many contemporary normative theorists, like Will Kymlicka, Charles Taylor, and William Galston, anchor their theories for the just adjudication of cultural claims in the assumption that people feel a strong attachment to their cultural groups. This assumption is problematic because it is simultaneously too flimsy and too strong to determine the responsibility of democratic states toward these groups. On the one hand, we simply do not know if human identity is more deeply constituted by culture or by, say, motherhood. Not only do we not know but such questions are also in some sense deeply unknowable, as Akeel Bilgrami has argued.

On the other hand, the assumption is too strong. If states should protect cultural attachments, why should we stop there? Intense preferences are everywhere. Even if we concede that culture is distinct in how it constitutes human identity, the attachment standard still gives us no grounds to distinguish

among cultural claims and claimants.<sup>13</sup> Its logic grants all cultural groups the right to make demands regardless of their histories of marginalization or privilege – to Serbs as it does to Roma, to Italian Americans as it does to Cherokee Indians.

It is precisely this fact – that a single marker, such as culture, can privilege one group and marginalize another – that makes critical liberalism suspicious of the drive to create universal principles of justice. All of the ways states organize access to power, delineate citizenship, and distribute resources rely ultimately on the formation of boundaries that are arbitrary and pernicious. Over the course of the nineteenth and twentieth centuries, we have recognized first property ownership, then gender, and finally race as illegitimate criteria for inclusion and exclusion. Critical liberalism adds culture to this list, knowing that this catalog does not exhaust the forms that exclusions can, and will, take. It would be shortsighted to imagine that this pattern will not continue, or that we could devise a system of justice that anticipates the scope of future injustices.

Stepping behind the claims of culture, to examine the politics that have generated recent demands for cultural recognition, changes the debate over how democratic states should respond to such demands. Once we reframe the question to concentrate on the origin

13 This is one of the problems Will Kymlicka runs into when he tries to discriminate among what democratic societies owe to immigrants and aboriginals. Having established that the state has a responsibility to protect cultural groups because individuals cannot process meaning without them, Kymlicka undercuts his subsequent claim that the state has different obligations toward different cultural groups. Will Kymlicka, ed., *Multicultural Citizenship* (Oxford: Oxford University Press, 1995).

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of political identities in the exclusions and inclusions set in place by the democratic state, it becomes clear that democratic institutions should engage the claims of culture in such a way that both the culture and the public sphere are open to challenge and transformation. To this end, normative political theorists should harness the critical potential of rights.

It is not easy to join the dialogue of an existing political order. People struggling to forge new political identities – to make visible the invisible boundaries that have excluded them – need tools. Over the course of the twentieth century, the language of rights has most often provided such leverage. Rights extend a promise. They behave as a formal acknowledgement that the present configuration of power and interests is harming some particular category of people – children, women, workers, or indigenous peoples – who are thus deserving of special protection. As a result, the language of rights constitutes the terms of struggle.

This is not to deny that rights are a double-edged sword that has long been available to those interested in maintaining the status quo, and have also played a role in shutting down political deliberation. However, this should not blind us to the possibilities of using the same weapon in pursuit of a transformative, and even subversive, agenda. After all, rights open up politics to the extent that they act as a promise, not as a guarantee. The United Nations Draft Declaration on the Rights of Indigenous Peoples, for instance, hardly ensures the future well-being of aboriginal populations. But the existence of an international indigenous-rights framework enables indigenous political mobilization, both domestically and across borders. The failure of governments to comply

with these obligations makes them vulnerable to opprobrium, possibly even sanction. While not always sufficient to secure state compliance, rights can clear a space in which groups can form and exercise a political voice.

Theorists such as Cass Sunstein and Stephen Holmes are wary of the way that rights remove issues that ought to be contested politically to the courts.<sup>14</sup> While courts may not be a democratic space, in the sense that judges and juries are not normally elected and do not necessarily represent the majority opinion, it is naïve to think that the courts are not a political space. Decisions like *Brown v. Board of Education* and *Roe v. Wade* have motivated civil-rights politics for the last forty years. In 2002, the Mexican Supreme Court reviewed 330 legal petitions asking it to reject the 2001 Indigenous Law. Although the Court ultimately declared itself incompetent to overturn the constitutional amendment, arguing that only Congress could change the Constitution, working through the legal system represented an important milestone in Mexican oppositional politics – a new strategy to focus attention on indigenous issues. The unsuccessful outcome does not detract from the fact that the courts provided an alternative rallying point for indigenous activism for over a year.

As the liberal-rights regime expands to include ever more categories of excluded people, it stretches the boundaries of political engagement, producing new political actors. These actors open our eyes to naturalized, and heretofore invisible, hierarchies. In doing so, they transform the terms of debate and introduce new strategies and alliances to the politics of

14 Stephen Holmes and Cass Sunstein, *The Cost of Rights: Why Liberty Depends on Taxes* (New York: W. W. Norton, 1999).

opposition. Thus, through the provision of rights, liberalism sets, and has the capacity to extend, the terms of democratic contestation. If pushed, this critical leverage uncovers the emancipatory potential of liberalism and highlights the crucial role of contingency in democratic transformation.

Democratic legitimation relies in a fundamental way on the renewal of politics that occurs when people challenge existing boundaries. Liberal democracies should not be immune from political challenge. A focus on political identities offers liberals both a normative justification and a strategy for contesting the borders of democratic politics. Seen in a certain light, liberalism itself enables identity formation, since claiming rights is a strategy of political intervention.

Critical liberalism is critical, then, in two senses. First, like other critical theories, it is rooted in an account of the ways in which institutionally and socially embedded power relations structure reality, in this case, identity. Critical liberalism owes a conceptual debt to critical legal studies and critical race theory and insists that political identities arise in a particular historical and social context, not from a universal human need for recognition.

Second, critical liberalism focuses attention on the currently unfulfilled promise of liberal rights. By providing the terms of struggle, rights offer the possibility of democratic renewal through the formation of new political identities. Democratic political institutions have a responsibility to engage with the political identities that arise to challenge, or to protect, existing patterns of access and distribution. Because liberalism can never be neutral, it must instead be contestable.