

THE LEFT: IN MEMORIAM?

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*The last step taken found your heft
Decidedly upon the left.
One more would throw you on the right.
Another still—you see your plight.
You call this thinking, but it's walking.
Not even that, it's only rocking¹*

INTRODUCTION

Is there a left left? It is popular nowadays to view the left as a hangover from a bygone era, a politics that collapsed along with the Berlin wall and that, like Humpty Dumpty, can never be put together again. The left is dead—or so it's said—so what can it possibly mean in the context of early twenty-first century legal education to “teach from the left”?

One way to answer this question is to consider the work that words like “left” and “right” do in a political context. Whatever its origins (and I will consider these), the term “left” now mainly operates as a metaphor in political discourse. It conjures up a visual image in which different political positions can be neatly plotted along a linear spectrum of views ordered in terms of their degree of opposition to each other. To talk about left and right is to impose an order—and to presume a coherence—that practical politics, particularly today, rarely if ever exhibits.

The problem with employing notions of left and right metaphorically, to chart and arrange political views and allegiances, is not merely that they impose an order. It is that the order imposed is too narrow. To be “left” is to be at one end of a linear political spectrum, to be confined to a space from which only horizontal movements are possible. To be “left” is to choose to move in one direction or another but never deviating from the same line. Thus envisaged, to be left—or right—is to travel very little, always in single file, leaving a great deal of space unexplored.

The image of political ideologies as being positioned along a single, straight

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1. ROBERT FROST, *To a Thinker*, in *THE POETRY OF ROBERT FROST* 325, 325 (Edward Connery Lathem ed., 1979).

line may be contrasted with multi-dimensional images of much greater depth and dimension. We might think of multiple lanes and intersections, crossovers and underpasses, bridges and tunnels. We might envision stellar constellations and alignments of planets, parallel universes and black holes. We might call upon sagging mattresses² and sloping balls so that politics, like time, might be reimaged in terms that challenge the steady tick of the political metronome. The point is to develop ways of approaching politics that avoid the limiting effects of polarities, and allow for the possibility of multiple, cross-cutting positions. Equally important is a language that allows us to situate politics within *processes*, so that politics may be conceived as mobile not fixed, active not passive. We need to be able to approach politics “from behind” or “on the diagonal,”³ as both constituted by and constitutive of the kind of problems that occupy political terrain. Metaphors of “left” and “right” do not have the evocative power to do this kind of work. They have lost their vividness and become “worn-out.” And, like all worn-out metaphors, they continue to be used merely because they save people the trouble of thinking of alternatives.⁴

But if the metaphor of “the left” no longer serves a useful purpose, that does not mean there is nothing there to be envisaged or evoked. To discard the metaphor of “the left” is not to discard a commitment to the ideas or concerns that the notion of the left, however imperfectly, conjures up. Nor is it to deny our engagement with and action upon those ideas or concerns. To teach from the left is to draw upon a history and political tradition that cannot be erased by the casual stroke of modern—or postmodern—disenchantment. We may see only through a glass darkly⁵ but we see nevertheless. If, then, we are to recognize the left—if we are to call upon its power and its purchase—we need to look far beyond the metaphor.

It is worth pausing for a moment to consider closely the origins and meanings of this now seemingly exhausted metaphor for political alignment. Traditionally, the use of “left” in a political context is attributed to the seating arrangements in the French National Assembly in 1789, in which the nobles sat on the right and the “third estate”—persons belonging neither to the nobility or the clergy—sat on the left of the Assembly President.⁶ Thus, the political left was, from its earliest manifestations, firmly rooted in revolutionary ideals that demanded the extension of political voice to people on the lower rungs of the

2. See BILL BRYSON, *A SHORT HISTORY OF NEARLY EVERYTHING* 166 (2003) (using common imagery to explain the concept of spacetime).

3. Michel Foucault, *Politics and Ethics: An Interview*, in *THE FOUCAULT READER* 373, 375–76 (Paul Rabinow ed., 1984) (describing problem-solving approaches to politics).

4. GEORGE ORWELL, *Politics and the English Language*, in *INSIDE THE WHALE AND OTHER ESSAYS* 143, 146 (1957).

5. See 1 *Corinthians* 13:12 (King James).

6. See CHAMBERS DICTIONARY OF ETYMOLOGY 586 (Robert K. Barnhart ed., 1988) (entries on “the left”); THE OXFORD COMPANION TO PHILOSOPHY 476 (Ted Honderich ed., 1995) (same); ROGER SCRUTON, *A DICTIONARY OF POLITICAL THOUGHT* 260–61 (1982) (same).

social and political order. During the nineteenth century, it became customary to assign the left side of European legislative chambers to those holding liberal views⁷: to be on the left in this context was to be engaged in a historical struggle against absolutism and in favor of constitutional forms of government. This revolutionary tradition in particular resulted in the association of the left with transformative politics.

However, with the growth and spread of industrial capitalism, the political left gradually became aligned with class struggle. Ideas of left and right that had originated in a political context were thereby relocated within economic and distributive concerns. This crystallized in the political metanarrative of capitalism versus socialism/communism. Much of twentieth-century political thought was firmly located within this dialectic, captured in a series of ideological oppositions that echoed the aesthetic of polarity: market/state; capitalist/workers; individual/collective; contract/welfare, etc. These were grafted onto older, traditional theories of bourgeois revolution, at times generating uneasy tensions within left politics on the subjects of liberty, equality, and individual (as opposed to collective) rights. One of the difficulties here was that a focus on relations of production—a primary entry point of this new left analysis and activism—problematized the realm of the political by implicating the liberal state in the maintenance of capitalist social relations (and, thereby, in the economic exploitation of one class by another).⁸ That said, for much of the twentieth century, the left, certainly in the West, continued to engage with the state as a potential source of social and political emancipation.⁹ Indeed, the left's politics was very much state-centered: its main strategy was to gain control of the state and thereafter generate state-initiated political, social, and economic reform. In this sense, the left never really relinquished its attachment to "liberal" values. Moreover, uniting both aspects of leftist tradition, one could detect a core concern for human dignity and an essential commitment to the idea of people as ends not means, subjects not objects.¹⁰

During the latter half of the twentieth century, there emerged what historian

7. CHAMBERS DICTIONARY, *supra* note 6, at 586.

8. Marx and Engels' *The Communist Manifesto* (1848), reprinted in K. MARX & F. ENGELS, *SELECTED WORKS* (1962) and 1 KARL MARX, *CAPITAL: A CRITIQUE OF POLITICAL ECONOMY* (Ben Fowkes trans., 1990) (1887) formed the basis of this critique of the liberal state. For an excellent contemporary analysis, see Ellen Meiksins Wood, *DEMOCRACY AND CAPITALISM: RENEWING HISTORICAL MATERIALISM* (1995).

9. Marx's exploration of the relation between political and social emancipation in Karl Marx, *On the Jewish Question*, in *THE PORTABLE KARL MARX* 96 (Eugene Kamenka ed. & trans., 1983), provides a fascinating study of the clash between the two left traditions in a nineteenth-century European political context. For a more contemporary analysis of the tension between class politics and individual rights activism in response to the increasing inegalitarianism spawned by neoliberalism, see DAVID HARVEY, *A BRIEF HISTORY OF NEOLIBERALISM* 175–82 (2005).

10. See, e.g., Karl Marx, *Economic and Philosophical Manuscripts of 1844: From the First Manuscript: 'Alienated Labour,'* in *THE PORTABLE KARL MARX*, *supra* note 9, at 131.

Eric Hobsbawm has described as a “third left.”¹¹ For Hobsbawm, the “second left” came to an end when it appeared to have achieved most of its social egalitarian objectives through the instrumentality of the redistributive welfare state¹² (coinciding, ironically, with neoliberal efforts to shift the redistributive impetus in the opposite direction¹³). In the wake of the collapse of the Eastern European “communist” experiment, the idea of total state transformation had lost its luster. The strategy of state engagement appeared to be reaching its limits. This new, third left was not class- but group-based; it directed its attention to cultural issues as much as it did to social and economic ones.¹⁴ In particular, it was concerned with inequalities flowing from cultural perceptions of group difference—that is, with problems of recognition, rather than redistribution.¹⁵

Broadly speaking, this preoccupation with the justice implications of cultural norms and practices has transformed the “grammar of political claims-making,”¹⁶ according to Nancy Fraser. As politics has become suffused with notions of identity, difference, plurality, and representation; as class and state have receded (or appeared to recede), the invocation of the labels “left” and “right” to capture and contain the political terrain seems increasingly anachronistic. Within the framework of identity politics, it is no longer possible to plot political allegiances along a straight line and in accordance with fixed locations. Where there was polarity, there is now plurality; where there was a single path, there are now many roads (although, it must be said, the roads remain unmapped and without directional signs).

One way of conceiving this change in the politics of the left is to envisage a fork, a point in the road where cultural and social politics “decoupl[e],”¹⁷ with the majority of left travelers choosing to follow the cultural path, rather than the social one. Or perhaps we should imagine not a fork, but a “turn”—a “cultural turn”—so that the left continues along a single path, but it is not one that is straight or unidirectional. Perhaps the left is simply in the process of negotiating a few sharp hairpin bends.

However envisaged, this change in direction—the origins of which are often

11. ERIC HOBSBAWM, *THE NEW CENTURY* 103 (Allan Cameron trans., Little, Brown & Co. 2000) (1999).

12. *Id.*

13. *See, e.g.*, HARVEY, *supra* note 9 (arguing that upward redistribution is the primary object as well as effect of neoliberal policies).

14. *See, e.g.*, Paddy Ireland, *History, Critical Legal Studies and the Mysterious Disappearance of Capitalism*, 65 *MOD. L. REV.* 120, 137–40 (2002) (criticizing the absence of economic critiques from the leftist critical legal studies movement).

15. *See generally* NANCY FRASER, *JUSTICE INTERRUPTUS: CRITICAL REFLECTIONS ON THE “POSTSOCIALIST” CONDITION* 11–39 (1997) (discussing the left’s shift in focus from class to group identity); NANCY FRASER & AXEL HONNETH, *REDISTRIBUTION OR RECOGNITION? A POLITICAL-PHILOSOPHICAL EXCHANGE* (Joel Golb, James Ingram & Christiane Wilke trans., 2003) (presenting alternate ways of understanding the relation of redistribution to recognition).

16. FRASER, *supra* note 15, at 2.

17. *Id.*

located in Althusser's rereading of Marx¹⁸—now finds its strongest expression in leftist applications of Michel Foucault's analysis of power as mobile, transferable, and diffuse, operating through a variety of disciplinary mechanisms and techniques and within a range of contexts and rationalities.¹⁹ Foucault's depiction of power as control over what passes for reason, knowledge, and truth²⁰ has proven to be a formidable challenge to political understandings of power as top-down and state-derived. This mode of thought has effectively shifted the focus of left political thought and activism away from the state, towards more localized and particular engagements. By deemphasizing the state, this new left politics has effected a reconceptualization of political space. Formal party politics has ceded significant ground to a new politics of civil society, one in which loose organizations and alliances, drawing on particular issues, groups, or constituencies, wage political battle with one another at the local and/or particular level.

There is much to be said for this kind of left politics. The immediacy of its potential impact makes it more likely to be a politics of action, rather than of words.²¹ Its fluid and contingent character lends itself to coalition-building, while providing a poor breeding ground for ideological entrenchment or political sectarianism. Moreover, it has a real capacity to reinvigorate the decaying politics of public space. At the same time, its preoccupation with culture—and its consequent abandonment of the state as a sphere of (left) political activism and debate—has supplanted, to a certain degree, those material considerations with which the left has hitherto been strongly associated. This has led, *inter alia*, to a neglect of “macropolitics” and an unwillingness to consider intellectual and political efforts to engage with society as a whole—that is, as a set of complex and dynamic institutions, structures, norms, and practices, whose operations and interactions may be charted, gauged, theorized, and assessed in terms of an integrated and organic whole.

At times, this reluctance to look at the “big picture” has spawned the kinds of political intolerance and intellectual close-mindedness that are typically

18. See Ireland, *supra* note 14, at 124–25 (discussing Althusser's influence on “new” left theory). See generally LOUIS ALTHUSSER, *FOR MARX* (Ben Brewster trans., Pantheon Books 1969) (1965).

19. On Foucault's conception of power, see especially MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (Alan Sheridan trans., Vintage Books 1979) (1975) and MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY: THE WILL TO KNOWLEDGE VOL. 1* (Robert Hurley trans., Vintage Books 1979) (1976). For an exposition of Foucault's conception of power in a legal context, see DUNCAN KENNEDY, *The Stakes of Law, or Hale and Foucault!, in SEXY DRESSING ETC.: ESSAYS ON THE POWER AND POLITICS OF CULTURAL IDENTITY* 83, 111–25 (1993).

20. See, e.g., MICHEL FOUCAULT, *POWER/KNOWLEDGE: SELECTED INTERVIEWS AND OTHER WRITINGS* (Colin Gordon ed. & trans., Longman 1995) (1980).

21. A traditional characteristic of left politics is that it delivers. As E.P. Thompson observes: “The end of politics is to act and to act *with effect*.” E.P. Thompson, *Notes on Exterminism, The Last Stage of Civilization*, *NEW LEFT REV.*, May–June 1980, at 3, 31. See also HARVEY, *supra* note 9, at 200 (“What such [contemporary social] movements lose in focus they gain in terms of direct relevance to particular issues and constituencies.”).

credited to more traditional forms of politics. In particular, materialism²² as a political and theoretical approach has become so strongly associated with the Foucauldian rejection of “totalizing” narratives that it has become increasingly difficult to make arguments that attempt to draw connections between economic and cultural,²³ or between local and global, phenomena.²⁴ One result has been the dissociation and, indeed, polarization of left politics into a false antithesis of recognition and redistribution claims.²⁵ More generally, what we have been witnessing is not just the fragmentation of left politics, but its wholesale re-invention, accompanied by a marked amnesia regarding its origins, history, and purposes.²⁶ It is in this climate of postmodern *oubliez* that we observe the unseemly haste to write the left’s epitaph, most often by those who assert for themselves the mantle of radicalism.²⁷ In fact, the left is not gone; it is simply forgotten.

Into this realm of deliberated forgetfulness steps the twenty-first century. The dawn of a new millennium—with all its wonder and future promise—seems an inauspicious time to rehabilitate an old and wounded political tradition, particularly at a point when neoliberalism is conquering the globe. All that seems left of the left is the appeal of its nostalgic delusionalism, its naïve belief in a world in which neoliberalism does not have to hold sway. “It’s so last century,” some remark of the left. “It’s retro,” say others, sporting their Che Guevara T-shirts. Traces of the left tradition of revolutionary and socially egalitarian politics may be found in the twenty-first century, but they have been reduced to a fashion statement.

22. By “materialism,” I refer here to the intellectual tradition, developed by Marx and Engels, of historical materialism, which examines society through the lens of productive activities and the social relations they generate. For further exploration of this topic, see WOOD, *supra* note 8, at 18–180. Ellen Meiksins Wood is one of the finest of contemporary historical materialists. That her work is so little known outside the intellectual tradition in which she writes is indicative of the extent to which historical materialism has been excised from the mainstream of contemporary political and intellectual thought.

23. See Ireland, *supra* note 14.

24. As Terry Eagleton cynically comments: “[W]e live in a world where the political right acts globally and the postmodern left thinks locally.” TERRY EAGLETON, *AFTER THEORY* 72 (2003).

25. FRASER & HONNETH, *supra* note 15, at 9–26.

26. Terry Eagleton, in a chapter entitled *The Politics of Amnesia*, highlights “the absence of memories of collective, and effective, political action.” EAGLETON, *supra* note 24, at 7. Eagleton continues:

There can be no falling back on ideas of collectivity which belong to a world unravelling before our eyes. Human history is now for the most part both post-collectivist and post-individualist . . . [W]e need to imagine new forms of belonging, which in our kind of world are bound to be multiple rather than monolithic.

Id. at 21.

27. But see DAVID HOROWITZ, *THE PROFESSORS: THE 101 MOST DANGEROUS ACADEMICS IN AMERICA* (2006), suggesting that the left is alive and well in American universities. Howowitz’s book signals the onset of a reinvigorated attack on left political ideas in American higher education.

TEACHING FROM THE LEFT

Teachers from the left today confront students who neither remember nor forget. For this generation, the tenets of neoliberalism are a commonsense way of understanding and interpreting the world. This is a generation of students who have grown up with the “end of history,” with the idea that we have reached such a point of historical culmination that history is no longer relevant or intelligible.²⁸

Perhaps, then, we should look for the left, not in its history, but in its etymology.²⁹ Perhaps there are other meanings of “left” from which we, as “teachers from the left,” can draw. Take, for example, the French word for “left”—*gauche*—which in English is used to describe a person who is socially awkward or uncomfortable.³⁰ The leftist in this sense is a social outsider, someone who does not (or cannot) conform to social norms and expectations, a potentially disruptive element in the order of things. Consider, too, the Latin word for “left”—*sinistra*—which corresponds closely to the English word “sinister,” conjuring up a strange and brooding presence that both threatens and disturbs.³¹ To be sinister is to move in darkness, not light. It is to lurk at the edge of all that is comfortable and familiar. It is to cast a momentary shadow over the cool complacency that marks our sense of what and how we perceive.

Both *gauche* and *sinistra* position the left as *outside* the mainstream: beyond the acceptable, disruptive of the given, subversive of the norm. These terms resonate with traditional images of the left activist as someone on the fringes of political legitimacy. They also evoke a particular manifestation of contemporary left politics—namely, the politics of transgression. To transgress is to go beyond the bounds or limits set by norms. The politics of transgression is a politics of resistance to norms and to the disciplinary effects of normative discourses and practices. History is awash with instances of transgression, from Byronic excess to religious asceticism. However, today’s transgressive politics is closely linked with the Foucauldian notion that power is exercised—and control thereby secured—not solely through the repressive operations of the state, but also, and more significantly, through the regulatory effects of various techniques, rationalities, modes, and institutional and cultural contexts.³² This, then, is a

28. FRANCIS FUKUYAMA, *THE END OF HISTORY AND THE LAST MAN* 48–51 (1993) (exploring the question of whether it is possible to speak of a history of mankind that will eventually lead the world to liberal democracy). See also EAGLETON, *supra* note 24, at 6–7:

Over the dreary decades of post-1970s conservatism, the historical sense had grown increasingly blunted, as it suited those in power that we should be able to imagine no alternative to the present. The future would simply be the present infinitely repeated—or, as the postmodernist remarked, “the present plus more options.”

Id.

29. See *supra* note 6 and accompanying text.

30. WEBSTER’S NEW COLLEGIATE DICTIONARY 471 (1981).

31. *Id.* at 1076.

32. See *supra* notes 19–20 and accompanying text.

politics that corresponds with and endorses the “cultural turn” in left thinking and activism.

There are, however, difficulties with using the idea of transgression as a model for an alternative left politics. One difficulty is the continued decentering of the state in left political thought, which renders transgressive politics ill-equipped to respond to neoliberalism’s virtual takeover of state power. Moreover, in turning away from the politics of distribution, the contemporary left has ceded crucial ground to the right, making Tony Blair and other “centre-left” politicians our best hope for tackling poverty and disadvantage. Another problem with transgression is that it reinscribes a polarity into politics—the polarity of relentless resistance. Granted, this is not the “single file” politics of old; it may be better described as a tensile politics, the aim of which is to stretch the normative cord so tight that it eventually snaps. This is a left in “infinite regress;”³³ its task is that of endless resistance to exercises of power, including those that purport to be progressive. It is quite different from a politics that aims to *gain* power. The left’s politics of transgression is not and never can be a politics of social transformation, if transformation is understood to entail not just radical change but also concrete and substantial gains for the disadvantaged. Such change requires not just the will to resist power, but also the means and the ability to exercise it.³⁴ Sometimes the role of the left is not only to resist norms but also to create the conditions for new norms to take root and *endure*.³⁵

There is a third derivation of “left,” which I wish to consider briefly. In Old English, *lyft* meant “weak,” corresponding with notions of lameness or paralysis and stemming from the idea that the left hand is generally weaker than the right.³⁶ This is an idea of the left that resonates in neoconservative circles, where leftists are construed as namby-pamby, lily-livered liberals, whose do-gooding interventions on behalf of the weak and needy only serve to make their beneficiaries weaker and needier.³⁷ This view of the left depicts leftism as a politics that disables individual choice and capacity by rendering citizens dependent on the ministrations of the nanny state. But it also a conception that, in identifying weakness—whether physical, social, or political—as a core

33. DUNCAN KENNEDY, *A CRITIQUE OF ADJUDICATION: FIN DE SIÈCLE* 339 (1997).

34. How, for example, are the problems of poverty and racism that continue to plague contemporary South Africa to be tackled by a post-apartheid government that has secured power from a previously repressive regime? Evidence to date suggests that the promise of liberation remains elusive at best. See generally JOHN PILGER, *FREEDOM NEXT TIME* (2006).

35. See DAVINA COOPER, *CHALLENGING DIVERSITY: RETHINKING EQUALITY AND THE VALUE OF DIFFERENCE* 142–64 (2004) (assessing value of new routines for radical politics and describing conditions necessary for change); Davina Cooper, *Against the Current: Social Pathways and the Pursuit of Enduring Change*, 9 *FEMINIST LEGAL STUD.* 119 (2001) (exploring how new “social pathways” form and implications for sustaining change).

36. CHAMBERS DICTIONARY, *supra* note 6, at 586.

37. See generally THOMAS FRANK, *WHAT’S THE MATTER WITH KANSAS? HOW CONSERVATIVES WON THE HEART OF AMERICA* (2004) (describing and critiquing the conservative viewpoint of American Midwesterners).

concern of the left, taps into a notion of left politics as representing those whose voices have been disabled by political arrangements that privilege certain needs and interests over others. Such a notion encompasses traditional left concerns with poverty and economic need while also embracing elements of modern identity politics, particularly the recognition that social arrangements that favor some groups can disable others under circumstances in which, were things arranged differently, no disability would arise. In this way, the idea of the left—in its oldest, most arcane, etymologically purest form—can be linked directly to a concern for those who find the world to be presented in ways that eclipse or obliterate their experience of it.

In a famous early article of the American critical race movement, Mari Matsuda urged critical legal scholars to “look to the bottom,” to build our theories and our politics from the lived experience of those whose lives are marked by disadvantages flowing from social and political arrangements.³⁸ In so doing, she drew upon an empirical and theoretical tradition that can be traced to Marxist examination of the relationship between a class’s “vantage point” and its consciousness,³⁹ but which fully flourished in feminist theory, particularly in the work of black feminist Patricia Hill Collins⁴⁰ and standpoint feminist Sandra Harding.⁴¹ Properly understood, standpoint theory is not, as is often suggested, the presentation of raw experience as theoretically privileged knowledge.⁴² However, it does require us to take account of experience—specifically, the experience of those who are marginalized and oppressed by social arrangements—in our theory-building efforts. At the very least, to teach from the left is—or, in my view, should be—to nurture and develop the “circuits” that link intellectual endeavors with practical experience.⁴³ This theme runs through almost all manifestations of leftism. It is particularly visible in the historical materialism of Marxism (in which history was viewed through the lens of

38. Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, in *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* 63, 63 (Kimberlé Crenshaw, Neil Gotanda, Gary Peller & Kendall Thomas eds., 1995).

39. See, e.g., GEORG LUKÁCS, *Class Consciousness*, in *HISTORY AND CLASS CONSCIOUSNESS: STUDIES IN MARXIST DIALECTICS* 46, 53 (Rodney Livingstone trans., MIT Press 1971) (1968).

40. See, e.g., PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 11 (2d ed. 2000) (arguing that the position of the “outsider within” a community confers a “distinctive angle of vision” on it).

41. See generally Sandra Harding, *Rethinking Standpoint Epistemology: What Is “Strong Objectivity”?*, in *THE FEMINIST STANDPOINT THEORY READER: INTELLECTUAL AND POLITICAL CONTROVERSIES* (Sandra Harding ed., 2004) (arguing that perspectives of the marginalized create more objective accounts of the world). See also NANCY C. M. HARTSOCK, *THE FEMINIST STANDPOINT REVISITED AND OTHER ESSAYS* (1998) (building on Marxist theory in a feminist context).

42. See Joanne Conaghan, *Schlag in Wonderland*, 57 U. MIAMI L. REV. 543, 553–57 (2003) (exploring the concept of standpoint).

43. See E. P. THOMPSON, *Outside the Whale*, in *THE POVERTY OF THEORY & OTHER ESSAYS* 1, 3 (1978) [hereinafter *POVERTY OF THEORY*].

people's labor and their relationship to productive activities),⁴⁴ but, in highlighting situated knowledge, it is also evident in the anti-foundationalism of postmodernist approaches. However, to embrace standpoint in a political context is, above all, to acknowledge the inseparability of theory and practice.⁴⁵ It is to assert the importance to radical thinking of recognizing that meaning is not just produced, mediated, shaped, and developed by economic, social, and cultural processes that we can then scrutinize; meaning is also *lived*. And it is that lived quality with which all theory, and particularly left theory, must endeavor to connect. Otherwise, it is likely to be impotent when experience throws up new questions for theory to answer:

Experience does not wait discreetly outside [the philosophers'] offices, waiting for the moment at which the discourse of . . . proof will summon it into attendance. Experience walks in without knocking at the door, and announces deaths, crises of subsistence, trench warfare, unemployment, inflation, genocide.⁴⁶

Experience has thrown up many difficult questions of late: How do we forge a radical egalitarian global politics after 9/11? How can Guantanamo *be*? Why is it that the battle against racism not only has not been won, but may even be in danger of being lost?⁴⁷ Why are countries still enacting highly restrictive abortion laws which threaten women's lives?⁴⁸ Why can't gays get married?⁴⁹

44. See *supra* note 22.

45. Hence, the left's engagement with the philosophical notion of "praxis," originally a Greek word for "action" deployed by Aristotle to mean the act of doing rather than making something, and later successfully developed by Left Hegelians and Marxists to highlight the importance of intellectual and creative engagement to social transformation. See THE OXFORD COMPANION TO PHILOSOPHY, *supra* note 6, at 713.

The relationship between theory and practice is also a recurring theme in critical legal studies. See, e.g., Peter Gabel & Duncan Kennedy, *Roll Over Beethoven*, 36 STAN. L. REV. 1 (1984). In feminist legal theory, see bell hooks, *Theory as Liberatory Practice*, 4 YALE J.L. & FEMINISM 1 (1991); Catharine A. MacKinnon, *From Practice to Theory, or What Is a White Woman Anyway?*, 4 YALE J.L. & FEMINISM 13 (1991).

46. See THOMPSON, *The Poverty of Theory: Or An Orrery of Errors*, in POVERTY OF THEORY, *supra* note 43, at 200–01.

47. See, e.g., GARY ORFIELD & CHUNGMEI LEE, RACIAL TRANSFORMATION AND THE CHANGING NATURE OF SEGREGATION (2006), available at http://www.civilrightsproject.ucla.edu/research/deseg/Racial_Transformation.pdf, for a report from the Harvard Civil Rights Project showing that racial segregation in American public schools has been increasing since the early 1990s when desegregation orders were judicially dissolved.

48. For example, a recently enacted law in Nicaragua prohibits abortion even when a woman's life is endangered. This changes the previous legal position, which permitted abortion if three doctors certified that a woman was at risk. Ley No. 603, 26 Oct. 2006, Ley de Derogación al Artículo 165 del Código Penal Vigente [Law Repealing Article 165 of the 1974 Penal Code] art. I, La Gaceta, 17 Nov. 2006 (Nicar.) (repealing section of penal code which previously allowed therapeutic abortions). See also Rory Carroll, *Nicaragua Votes to Outlaw Abortion*, THE GUARDIAN (London), Oct. 27, 2006, at 21. The absence of legal access to abortion under any circumstances in some countries contributes to what has been described as a "preventable pandemic" of unsafe abortions. See Preventing Unsafe Abortion, World Health Organization, http://who.int/reproductive-health/unsafe_abortion/index.html (last visited Aug. 7, 2007).

Why are the rich getting richer and the poor getting poorer?⁵⁰ And why do we live in a world in which the dominance of economic forces is more evident, and yet denied more fervently, than ever before⁵¹?

How does the left even start negotiating such hostile political terrain?

The neoliberal guru Friedrich Hayek began writing in the 1940s and 1950s, developing the theoretical ideas⁵² that were eventually to form the basis of neoliberalism—ideas that were widely regarded as wholly unacceptable in the political environment of post-war Keynesian welfarism.⁵³ At the time, he commented that the battle over ideas—the ideas that he and his fellow travelers

49. In 2004, the U.K. introduced civil partnerships for gay couples under the Civil Partnership Act. Civil Partnership Act, 2004, c. 33, §§ 1–264 (Eng.). This has generated intense debate in the United Kingdom gay community about the desirability of legalized gay marriage. See, e.g., Nicola Barker, *Sex and the Civil Partnership Act: the Future of (Non)Conjugalit?*, 14 FEMINIST LEGAL STUD. 241 (2006); Rosemary Auchmuty, *Same-sex Marriage Revived: Feminist Critique and Legal Strategy*, 14 FEMINISM & PSYCHOL. 101 (2004); Rosie Harding, “Dogs Are ‘Registered’, People Shouldn’t Be”: *Legal Consciousness and Lesbian and Gay Rights*, 15 SOC. & LEGAL STUD. 511 (2006). As things stand, marriage between same-sex couples abroad (for example, in Canada) is not recognized in the U.K. other than as a civil partnership. This was subject to a recent challenge on human rights grounds by a lesbian couple, Celia Kitzinger and Sue Wilkinson, but their action failed. *Wilkinson v. Kitzinger*, [2006] EWHC 2022 (Fam.). See also Hugh Muir, *Court’s Denial of Lesbian Marriage Condemned As Sexual Apartheid*, THE GUARDIAN (London), Aug. 1, 2006, at 12.

50. For an analysis on the growing household wealth inequality in the United States, see EDWARD N. WOLFF, TOP HEAVY: THE INCREASING INEQUALITY OF WEALTH IN AMERICA AND WHAT CAN BE DONE ABOUT IT (2002). For general information on increased economic inequality across the globe, see HARVEY, *supra* note 9, at 14–19. One of the many ironies of addressing a conference on *Teaching from the Left* at Harvard Law School is that one steps into the heart of class privilege by doing so. See ANTHONY P. CARNEVALE & STEPHEN J. ROSE, SOCIOECONOMIC STATUS, RACE/ETHNICITY, AND SELECTIVE COLLEGE ADMISSIONS 11 (2003), available at http://www.tcf.org/publications/education/carnevale_rose.pdf (finding, inter alia, that three percent of students in America’s top colleges come from families in the lowest income quartile and only ten percent from the bottom half).

51. See EAGLETON, *supra* note 24.

52. See F. A. HAYEK, THE ROAD TO SERFDOM (1944); THE CONSTITUTION OF LIBERTY (1960); LAW, LEGISLATION AND LIBERTY, VOL. 1: RULES AND ORDER (1973); LAW, LEGISLATION AND LIBERTY, VOL. 2: THE MIRAGE OF SOCIAL JUSTICE (1976); LAW, LEGISLATION AND LIBERTY VOL. 3: THE POLITICAL ORDER OF A FREE PEOPLE (1979). For an overview and critique of Hayek’s work, see Alan Thomson, *Taking the Right Seriously: The Case of F. A. Hayek*, in DANGEROUS SUPPLEMENTS: RESISTANCE AND RENEWAL IN JURISPRUDENCE 68, 68–101 (Peter Fitzpatrick ed., 1991).

53. See Susan George, *A Short History of Neoliberalism: Twenty Years of Élite Economics and Emerging Opportunities for Structural Change*, in GLOBAL FINANCE: NEW THINKING ON REGULATING SPECULATIVE CAPITAL MARKETS 27, 27 (Walden Bello, Nicola Bullard & Kamal Malhotra eds., 2000):

In 1945 or 1950, if you had seriously proposed any of the ideas and policies in today’s standard neoliberal toolkit, you would have been laughed off the stage or sent off to an insane asylum. . . . The idea that the market should be allowed to make major social and political decisions; the idea that the State should voluntarily reduce its role in the economy, or that corporations should be given total freedom; that . . . citizens [should be] given much less rather than more social protection—such ideas were utterly foreign to the spirit of the time.

Id.

were propounding—would take decades to win.⁵⁴ And he was right. It was not until the 1970s that anyone really began to take those ideas seriously. But Hayek was undaunted by the lack of contemporary recognition for his political and intellectual views, because he was a politically committed man—and a patient one. In the same way, the current political climate is not a propitious one for the development of new critical concepts to challenge the hegemony of neoliberalism. Neoliberalism has moved so smoothly and so stealthily from the sidelines to center field that some players on the left don't even realize it is there, while others have simply vacated their positions, leaving the left looking rather empty and abandoned.

But the left is not just an empty space. Nor is it a snapshot that is fading with age. The left is a living history, a political tradition, a common heritage, an endowment. It is not something we can choose to erase. Teaching from the left today means teaching in the tradition of Marx *and* Foucault; it means drawing upon the commitment of eighteenth-century revolutionaries, the inspiration of nineteenth-century poets,⁵⁵ and the past and present struggles of twentieth and twenty-first century workers and activists. It means recognizing the myriad and complicated ways in which history infuses both our present and our future, constituting us as left thinkers and activists. The left is not about blueprints or ideologies, nor is it theology. To teach from the left is to urge our students to engage with that great tradition of thinkers who believed in the active deployment of reason to improve the human condition. Yes, it is an intellectual tradition that is as fraught with contradiction and dissent as it is with coherence and consensus. But that surely is the point. It is the *process* of theoretical engagement—the creative working through of new ideas in the context of endless challenges, events, and players; the practiced acquisition of habits of critical interrogation and reflection that are firmly grounded in lived experience and personal commitment⁵⁶—that we can rightly claim for the left. As E.P. Thompson has written: “Neither the Left nor Marxism can ever belong to any set of people who put up fences and proprietary signs; it can belong only to all those who choose to stay in that ‘terrain’ and who mix it with their labour.”⁵⁷

54. HARVEY, *supra* note 9, at 21. On the rise of neoliberal theory, see *id.* at 19–31 and GEORGE, *supra* note 53, at 27–35.

55. On the relationship between poetry and politics, see generally E.P. THOMPSON, *MAKING HISTORY: WRITINGS ON HISTORY AND CULTURE* (1994).

56. See Foucault, *supra* note 3, at 374 (“[A]t every moment, step by step, one must confront what one is thinking and saying with what one is doing, with what one is.”).

57. Edward Thompson, *Romanticism, Moralism and Utopianism: The Case of William Morris*, *NEW LEFT REV.*, Sept.–Oct. 1976, at 83, 111.