POLYCENTRIC GOVERNANCE AND THE GOOD SOCIETY

A Normative and Philosophical Investigation

EDITED BY DAVID THUNDER
AND PABLO PANIAGUA

Polycentric Governance and the Good Society

POLYCENTRICITY: STUDIES IN INSTITUTIONAL DIVERSITY AND VOLUNTARY GOVERNANCE

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

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Introduction

The Timeliness of Polycentric Theories of Governance[1]

Pablo Paniagua and David Thunder

Many theorists who investigate how society ought to be governed assume that a highly centralized or monocentric State administration is the most appropriate mechanism for governing social life, and then go on to investigate how such a centralized State should be structured and which principles should animate its governing organs. For example, local governments are treated as mere emanations of "the State" rather than independent political units, or principles of justice are devised for a "State" without taking into consideration the authority and diverging priorities of sub-state governments. In this book, we wish to critically interrogate the assumption that the governance of social life should be conducted in a highly centralized manner. Our critical examination will be conducted at the intersection of politics, philosophy, law, and economics.

Specifically, the goal of this book is twofold: first, to critically examine the role of the monocentric state in either supporting or undermining the health and stability of the social order; and second, to explore the philosophical foundations of alternative polycentric arrangements of governmental power and authority, and how they can help promote a good society. In this collected volume, our authors employ a variety of different philosophical and methodological perspectives as they elaborate approaches to governance and political order that grapple seriously with the complex and multifaceted nature of social life. This is the first serious attempt in the literature to explore in depth what it means, not only from an economic and organizational standpoint but also from a broader ethical, sociological, and anthropological perspective, to live in a polycentric political system and how polycentric orders might contribute to human and societal flourishing.

THE SCOPE OF THE BOOK

Since the age of monarchical absolutism, when King James (1566–1625) described himself as "God's lieutenant on earth," political theorists and actors have expended a great deal of energy spelling out the need for a central government to establish a fully integrated public order and oversee social, political, and economic life across a national territory. While these centralizing tendencies have not gone unchallenged, polycentric and dispersed forms of governance remain underrated and understudied by mainstream political theorists, philosophers, and PPE (Philosophy, Politics, and Economics) scholars alike.

This collection of essays aims to place the idea of polycentric governance under the analytic microscope, not merely as an explanatory tool for making sense of particular social practices, nor simply as a potential strategy for solving local coordination problems, such as the provision of policing and water, but as a normative ideal for social life conceived more broadly. When we speak of polycentric governance, we have in mind a plurality of units of governance enjoying substantial mutual autonomy yet sharing some common interests, submitting to shared rules and decision procedures, and responding adaptively to each other's decisions. The diverse units of a polycentric governance arrangement may be guided by a similar logic or rationale, e.g., the logic of market exchange or utility maximization; or alternatively, they may be guided by heterogeneous logics or rationales, e.g., the logic of economic production, religious fidelity, public administration, or artistic creativity.

In this book, we are not interested exclusively in offering a morally detached description of a set of social phenomena and their operations; rather, we wish to examine the advantages of polycentricity as a method or philosophy of governance, when compared to more monocentric approaches. Polycentric approaches to governance may be distinguished from their more monocentric or centralizing counterparts inasmuch as they maintain that effective or successful social governance requires (i) a plurality of organs of governance, (ii) enjoying substantial levels of mutual autonomy, (iii) capable of interacting with each other and submitting to shared rules and decision procedures, in productive and functional ways, (iv) without being controlled by a uniquely sovereign or supreme super-coordinator.[2] A centralizing approach could accept (i) and (iii)—a plurality of governmental organs capable of interacting with each other productively under shared rules and decision procedures—but would reject (iv), instead viewing the subordination of the prerogatives of local governments to a sovereign super-coordinator as inevitable or essential for public order.

Of course, we are not the first to discuss the theory and practice of polycentric governance and coordination. Governmental and institutional polycentricity have been ably investigated by political economists like Vincent and Elinor Ostrom, political and economic historians like James Scott, theorists of federalism such as Daniel Elazar, and political theorists such as Chandran Kukathas and Gerald Gaus. The latter, in particular, has led the way in investigating how a stable political order could emerge from a plural and diverse society. Without wishing to detract from the value of these contributions, we contend that the practice of polycentric governance and its ethical and institutional foundations remain under-theorized. For example, a variety of political economists have discussed the efficiency gains of polycentric governance and the inefficiency of hyper-centralization, but we see few explicit and systematic defenses of polycentricity that are anchored in a general discussion of human and societal flourishing, broadly construed.

What makes this volume distinctive is that it seeks to explore the implications of a polycentrically governed social order not only for economic cooperation and efficiency, but also for fundamental human aspirations, such as friendship, community life, political stability, and rational self-government. We have yet to see the emergence of a compelling institutional and normative theory of polycentric governance as an effective framework for a flourishing, welfare-enhancing society—or if such a theory does exist, it has not garnered the attention it deserves. Our goal in this edited volume is to lay some of the philosophical and institutional-theoretical groundwork for such a theory.

Perhaps more than any well-defined doctrine about social life, what unites the authors of this volume is a suspicion of overly systematizing and homogenizing conceptions of social and economic order, and a rejection of the notion that society could be sculpted into a perfectly integrated whole, such as a tightly harmonized constitutional system. Scholars friendly to polycentricity and decentralization are disinclined to read systematicity, homogeneity, and full harmonization into situations that are, on their face, riddled with heterogeneity and complexity, such as the teeming life of a city or the political life of a nation. In other words, polycentrists—two notable examples being Elinor Ostrom and James Scott—are philosophically and methodologically disposed to resist the temptation to purchase explanatory elegance at the cost of social reality. A flattened, two-dimensional social order may be easier to decipher. However, it is a fictitious projection that artificially flattens out the structural, ideological, cultural, and institutional heterogeneity of modern societies and consequently underestimates the challenges of effective governance.

We are optimistic that a serious examination of the benefits of polycentric governance for human society will show that polycentricity is not just a valuable tool of public administration, but an indispensable conceptual framework and normative guide for a human society capable of servicing its

members' needs and responding to their reasonable hopes and expectations as human persons. Hence, this book could be read as an attempt to lay out, in a rough and preliminary fashion, the foundational principles of a normative and philosophical theory of polycentric law and politics, with the potential to reinvigorate scholarly debates about governance and civil order in complex and diverse societies.

POLYCENTRIC THINKING IN PHILOSOPHY
AND THE SOCIAL SCIENCES

The pushback against overly homogenizing and centralizing approaches to governance and social order is already well underway. One of the most influential schools of polycentric thinking is what has become known as the Bloomington School of Political Economy, spearheaded by studies of polycentric governance led by Elinor and Vincent Ostrom, starting in the 1960s (e.g., V. Ostrom, Tiebout, and Warren 1961). One representative example of their blending of theoretical and empirical investigation is their study of the comparative merits of decentralized versus centralized policing systems (E. Ostrom, Parks, and Whitaker 1973).

Since then, much of the work on polycentric systems of social coordination has followed in the Ostroms' footsteps, investigating methods through which the provision of public goods and services and the solution of a variety of problems of social and economic coordination may be achieved by multiple organs of governance with substantial levels of mutual autonomy, cooperating on a more or less voluntary basis (e.g., Schneider 1989, McGinnis 1999, Pennington 2008, Paniagua 2022, Paniagua 2020, Aligica and Tarko 2013, Aligica 2014). These sorts of studies seek to interrogate the practical benefits of polycentric governance for the production and provision of public goods, such as security, public health, roads, and water infrastructure, and to disprove widely held assumptions concerning the preferability of monocentric models of public administration.

We have also seen important discussions of polycentric governance in studies of federal and confederal political systems (Buchanan 1996, Elazar 1987, Kriesi and Trechsel 2008, V. Ostrom 1991) and governance beyond the State (Stringham 2015, Ellickson 2009, Auerbach 1984, Risse 2013, Scott 2014), not to mention a wave of literature in recent decades on political and legal pluralism (Delmas-Marty 2009, Griffiths 1986, Teubner 2012b, Cerny 2010, Hirst 2013, Tully 1995, Muñiz-Fraticelli 2014, Levy 2015), which shows the futility of attempts by modern thinkers to integrate social order under a single, uniform system of law or governance. Nevertheless, one comes away from this impressive bank of research wondering why polycentricity, especially in

a world in which the old, centralized models are losing their grip on social reality, is not on the tip of the tongue of every serious political scientist, lawyer, political philosopher, and social theorist.

How might we explain the relatively low visibility of polycentric governance in contemporary social science and philosophy? Two possible explanations come to mind. First, even if the concept is relevant to many aspects of social, political, and economic life and has able and sophisticated defenders, it remains countercultural in the Kuhnian sense of not fitting squarely into the centralizing paradigms of modern social science, whether internationalism, which divides the world up into States as collective rational actors; statism, which views the State as the supreme source of order in the national sphere; or certain versions of legal positivism, which essentially assume the existence of a single system of law in any given territory (two prominent exponents of this view are Hans Kelsen 2002/1934 and H.L.A. Hart 1994/1961).

Highly centralized and State-centric paradigms of social governance and law are undoubtedly propagated and reinforced by State-controlled educational curricula and media, not to mention highly stylized images of more chaotic eras of feudal oppression, anarchy, and religious warfare (based on questionable historical generalizations), intended to serve as a stern warning against the pitfalls of decentralizing political and social authority. As Nobel Prize winner Elinor Ostrom lamented in 2005, "Leviathan is alive and well in our policy textbooks. The state is viewed as a substitute for the shortcomings of individual behavior and the presumed failure of community" (Ostrom 2000, 5). One could argue that some of the major works in political philosophy (e.g., Rawls 1971), political science (e.g., Downs 1957), and political economy (e.g., Samuelson 1948) published since World War II have significantly boosted the salience and prestige of State-centric visions of social order, relegating competing paradigms to the margins of academia.

A second possible explanation for the low visibility of polycentricity in modern social science and philosophy is that those who have broken with centralizing conventions to seriously investigate the potential explanatory and normative payoffs of attending to polycentric structures of social governance tend to be scattered across methodologically and topically heterogeneous fields of research, many of which pay limited attention to each other's findings and insights, and few of which pretend to offer anything like a "grand" unifying theory of politics or society.

The relative specialization and insulation of many domains of polycentric research, such as the institutional dynamics of federal polities (e.g., Bednar 2008), the proliferation of constitutional orders that govern diverse spheres of society (Teubner 2012), or the complex, multilayered political economy of metropolitan areas (Ostrom 1972), leads to an incomplete grasp of polycentrism's larger significance for the social sciences and weakens scholars'

capacity to develop an account of polycentric governance capable of speaking across disciplinary boundaries. Hence, if we wish to expand its analytical usefulness and theoretical visibility, it seems wise to adopt a broader, more integrated PPE (Philosophy, Politics, and Economy) perspective on polycentric governance. This is what we have done in this book.

SCHOLARLY CONTRIBUTION

During recent decades, the challenges of hyper-centralized political and financial power, illiberal technocracy, political polarization, and civic fragmentation have threatened the very foundations of liberal democracies. The liberal ideal of the Open Society, as F. A. Hayek (Hayek 1978) understood it, namely a tolerant, free-market society of strangers governed by impersonal rules, has come to be severely questioned from within, especially when some sectors of society see their quality of life decline in what they take to be a free-market economy. Indeed, as we can see from the steady polarization of Western politics and growing distrust in public institutions, the Open Society is a precarious achievement, whose future is far from guaranteed. This gives rise to a fundamental, yet highly neglected, question, namely, how can we realize the Hayekian ideal of the Open Society in a manner that is resilient to the challenges of centralized power, burgeoning technocracy, political polarization, and civic fragmentation?

Specialized and applied studies of polycentric governance can effectively exemplify and illustrate the power of polycentric approaches to social order and coordination. Three prominent examples of works of this sort are three edited volumes published over the past twenty-five years: *Polycentricity and Local Public Economies: Readings from the Workshop in Political Theory and Policy Analysis* (1999), edited by Michael D. McGinnis; *Governing Complexity: Analyzing and Applying Polycentricity* (2019), edited by Thiel, Blomquist, and Garrick; and *Polycentricity in the European Union* (2019), edited by van Zeben and Bobić. Each of these three volumes examines the concept of polycentric governance and order through the lens of applied problems such as water management, municipal governance, and inter-institutional governance within the European Union. Even though these contributions are extremely valuable in their applied fields of inquiry, their level of specialization prevents them from offering a broader, more ambitious vision of the role of polycentric governance in the good society and its contribution to human flourishing. We address this gap in the literature by taking up these larger questions in a way that aims to be accessible to students and scholars from a cross-disciplinary audience. In this way, we hope to push the idea of polycentric governance further into the mainstream of contemporary

academic discourse and promote serious consideration of polycentric solutions to a wide range of coordination problems confronting communities across the world.

This collection of essays is the first to carry forward the political economy tradition of polycentric governance and the Open Society, not exclusively on its own terms, but also under the broader umbrella of moral, political, and social philosophy. Building on works like *The Open Society and Its Complexities* (Gerald Gaus 2021) and a diverse body of work at the intersection of philosophy, politics, law, and economics, the arguments advanced in this volume suggest that under the right conditions, polycentric governance can be the institutional cornerstone of a resilient Open Society. The book offers normative arguments to show the ethical attractiveness of polycentric governance in a world marked by moral, cultural, and political diversity, disagreement, and conflict. But it also marshals PPE arguments and evidence to show that a resilient Open Society must rely on polycentric systems of governance if it hopes to attain political stability in the face of complexity and disagreement. Such arguments should offer valuable food for thought about the relationship between modern democracy and institutional and cultural pluralism, as well as the limitations of monocentric solutions to the problem of political order.

We aim to illuminate the value of polycentric governance arrangements and their fit with human needs in ways that resonate with the findings of Ostromian institutional economists, yet also examine this topic through the lenses of neighboring disciplines, such as moral philosophy, law, history, and political science. We take a step back from the intricacies of specialized debates within federalism and institutional economics, which often focus narrowly on governmental stability and the efficient satisfaction of economic needs, to ask larger philosophical and normative questions about the theoretical grounding for polycentrism and its general merits as a principle of social organization, when compared with more monocentric approaches. While there have been a number of individual works offering a broad philosophical treatment of polycentrically structured social orders (e.g., Müller 2019, Thunder 2018, Aligica 2019), to the best of our knowledge, there have been no edited collections, like this one, presenting a variety of approaches to the justification, design, and implementation of polycentric social orders with a broad philosophical and normative focus beyond the fields of political economy and public choice theory.

An academic world immersed in centralizing paradigms of social order, in particular those that look to the State or global actors to impose order from the top down, is gradually waking up to the fact that centralizing and homogenizing paradigms of social governance, such as Statism and internationalism, are unsatisfactory both as explanatory and action-guiding principles. The dream

of a centrally planned and controlled society nourished by August Comte and other European Enlightenment thinkers is fading into the distant past as we wake up to the reality of social complexity and its far-reaching implications for effective social governance. In this context, a broad and multidisciplinary investigation of the types of institutional arrangements that can rise to the challenges of governance and accommodate diverse ways of life under conditions of social complexity is long overdue.

A strong case can be made that polycentric governance arrangements, far from being a recipe for anarchy or social disorder, are actually more responsive to the challenges of governing a complex and multifaceted social order than their centralizing counterparts, and they may more reliably respond to a plurality of human needs and aspirations on the ground. Rather than following the conventional path of suppressing complexity and diversity for the sake of reaching agreement on justice and political stability, we see complexity and diversity as assets that should be leveraged to make the Open Society a more prosperous, resilient, and flourishing place to live.

We hope that *Polycentric Governance and the Good Society* will become a valuable reference work for academics and students looking for a probing, cross-disciplinary discussion of the ethos and institutions of liberal democracy under conditions of social pluralism, in particular the challenge of creating and preserving stable political institutions in a morally, politically, and culturally diverse Open Society. A book of this nature should appeal to students, academics, and researchers interested in the problem of order and governance under conditions of advanced social complexity in fields such as political science, moral and political philosophy, political economy, public administration, and legal and constitutional theory. This book should be of special interest to the PPE community of scholars interested in the justification, emergence, and preservation of a resilient Open Society.

Last but not least, we believe this book will hold interest for non-academic citizens who want to deepen their understanding of the challenges confronting free, democratic, and open societies in a world of deep moral and cultural pluralism. At a moment when the old idea of a State-centric society is under threat from the globalization of markets and politics, the rise of moral and cultural fragmentation, and the crisis of the welfare state, a volume developing alternatives to monocentric paradigms of order should appeal not only to specialized academic scholars, but also to a lay public interested in learning more about novel approaches to governance that break with traditional Statist paradigms of civil order.

OVERVIEW OF THE CHAPTERS

In this collection, we investigate the politics, philosophy, and economics of polycentrism not merely as an empirical description of a particular type of social arrangement, but as a normative and philosophical position on how society ought to be governed or might be most successfully governed. To think polycentrically about social order is to view social life as a plurality rather than a singularity: to acknowledge and attempt to do justice to the plurality of communities, narratives, and normative orders that interact dynamically in any extended social space. Echoing Isaiah Berlin's famous allegory, to think polycentrically about social order is to recognize that modern societies should not be conceived as a "compact coral reef," but as a complex ecosystem inhabited by an irreducible plurality of lifestyles and values, which cannot be fully embodied within a single human life or a single community. There is much at stake in vindicating this pluralist vision, given that personal and societal flourishing have suffered enormous harms from the suppression of diversity through unitary conceptions of justice, top-down conceptions of economic planning, or hyper-centralized forms of public administration.

This volume comprises nine contributions, reflecting on the logic and merits of polycentric governance from ethical, organizational, sociological, political, economic, historical, and legal-constitutional perspectives. The book is divided into three main sections: i) the ethics of polycentric governance, ii) the feasibility of polycentric orders, and iii) the principles of polycentric law and statecraft. In Part I, the ethics of polycentric governance, we have three contributions by David Thunder, Mark Hoipkemier, and John Thrasher, respectively.

In Chapter 1, "An Ethical Case for Bottom-Up, Polycentric Governance in a Complex Society," David Thunder seeks to complement and further illuminate existing defenses of social and institutional pluralism by more explicitly grounding the case for polycentric governance in the social and institutional infrastructure of flourishing communities. Building off the central value of the "freedom to flourish" and its social preconditions, Thunder lays out three guiding principles for a polycentric regime: individual and corporate voluntarism, proximity of rulers to ruled, and the bottom-up constitution of power. The aim of good governance and sound social coordination, on the approach defended by Thunder, should not be to monopolize the functions of social governance, but to cooperate with other relevant actors in facilitating the expansion of opportunities for human flourishing while fostering and protecting the integrity of the complex, multidimensional infrastructure of human flourishing.

In Chapter 2, "Is an Architectonic Pluralism Possible?" Mark Hoipkemier makes a bold case that Aristotelian thinking about the common good, contrary to popular belief, actually supports the ideal of a free and pluralistic society. Hoipkemier argues that political pluralists have nothing to fear from embracing the politics of the common good, rightly understood. It is a staple of Aristotelian doctrine, on Hoipkemier's interpretation, that the political community includes and oversees all aspects of human flourishing, while Catholic scholars frequently identify the "common good" as simultaneously including the whole good of the person, and being the proper object of State supervision. But this all-encompassing conception of the common good as something to be promoted by the State seems to license totalitarian meddling in every dimension of supposedly "private" life. In response to this challenge to the philosophy of the common good, Hoipkemier argues that the common good should not be understood in this highly integrated manner. Instead, we should understand the common goal citizens share as the public order among various human goods and projects. In Hoipkemier's view, this order does concern all of life's domains, but it only licenses political scrutiny over locally shared goods insofar as their role in this larger order is in question.

In Chapter 3, "Polycentric Justice," John Thrasher argues for an extension of the concept of polycentricity from institutions and organizations to norms of justice. Thrasher argues that justice as a global standard of legitimacy and a universal evaluative norm is ill-suited to a polycentric system of governance. While polycentric orders need legitimacy in the traditional sense and higher-level regulative norms, both are better achieved through a non-Rawlsian form of contractualism, which is not focused on justifying a universal conception of justice. A polycentric-friendly version of contractualism will justify less substantive procedural norms and institutional rules instead. The insight that polycentric theory leads us to, on Thrasher's view, is that contractual public justification can generate a standard of legitimacy without relying on justice as a basic norm. This chapter offers an original non-Rawlsian interpretation of contractualism, consistent with a diverse and polycentric social order.

In Part II, three essays address the feasibility of polycentric orders. The contributions come from Dries Daems and Alexander Schaefer, Pablo Paniagua and Kaveh Pourvand, and Vlad Tarko, respectively.

In Chapter 4, "The Problem of Complexity and the Emergence of Polycentric Political Order," Alexander Schaefer and Dries Daems examine the conditions under which polycentric political systems will likely emerge. Various normative and empirical aspects of polycentric political governance have garnered much attention, but political scientists have yet to closely examine the process through which polycentric political systems emerge. Schaefer and Daems aim to fill this gap by proposing an explanation of the

emergence of the polycentric state. They illustrate their explanation of the emergence of polycentric political order with a comparative case study focusing on Han China's and ancient Rome's governance structures. This chapter is methodologically innovative, using analytic models and historical analysis to understand the formation of polycentric orders.

In Chapter 5, "Whither Stability? Polycentric Democracy and Social Order," Pablo Paniagua and Kaveh Pourvand address a perennial question of political theory, namely how to stabilize a just regime. They view this problem as especially pressing in the context of the highly globalized and diversified social orders of the late twentieth and early twenty-first centuries, and as further accentuated by the emergence of the Weberian state that anchors society under a single, coercive structure of governance, strangely at odds with the fluidity and complexity of modern societies. Paniagua and Pourvand make a case for polycentric democracy as a better solution than the centralized nation-state to the challenge of stability. They argue that polycentric democracies, characterized by plural and overlapping centers of governance, are more robust (anti-fragile) in the face of political diversity, conflict, and instability than their more centralized counterparts, much as a variegated ecology is more robust than a monoculture. This chapter, operating at the intersection of political economy and political theory, offers valuable insights into the resilience and robustness of polycentric political systems.

Our third contribution on the feasibility of polycentric order comes from Vlad Tarko. In Chapter 6, "Self-Governance Solutions to Social Dilemmas: A Polycentric Approach," Tarko argues that effective self-governance is an important tool for solving "social dilemmas," understood as situations in which parties affected by a social problem do not have sufficient incentives to behave in ways that could solve it. Following in the footsteps of Vincent and Elinor Ostrom, Tarko rejects the traditional market-versus-State dichotomy, pointing us to a third approach, in which interested parties can play an active role in creating and developing regulatory and enforcement schemes from the bottom up. This approach is inherently polycentric due to the autonomy it necessarily affords to local actors. Tarko illustrates the power of self-governance as a solution to social dilemmas by explaining how it has been leveraged to solve problems of water governance, and then delves into the theoretical significance of these phenomena in light of debates about self-governance by authors such as Robert Dahl and James Buchanan. Tarko rounds out the chapter by exploring how the concepts of polycentricity and entangled political economy allow us to move from the analysis of small-scale communities to large-scale federal and international organizations.

In Part III, our volume is brought to a close by a set of essays on polycentric law and statecraft.

In Chapter 7, in "Panarchy: Non-Territorial Polycentricity," Aviezer Tucker defends a "panarchist" theory of state formation. The dominant Westphalian model of the state based on a territorial monopoly over the legitimate use of violence fits seventeenth-century technology, developed at a time when geographical distances could not be traversed efficiently, and even information took months to travel the globe. However, these monistic, top-down conceptions of political order are of limited relevance in a politically, culturally, and economically specialized, fragmented, and globalized world. Panarchy, a meta-political theory of non-territorial states founded on explicit social contracts, was first introduced in 1860 by the Belgian scholar Emil DePuydt. He proposed that citizens may sign a social contract with a State and may change their States without moving. Tucker suggests that in today's world, where citizens of nation-states have radically different ideas of the common good, panarchy may allow them to live together peacefully, each self-selecting into his or her own preferred contractual arrangement. This chapter shows how the intellectual tradition of panarchy may enrich and complement other forms of polycentric thinking.

In Chapter 8, "Polycentrism, the Rule of Law, and the Intelligibility of Human Rights Law," Pilar Zambrano inquires whether a polycentric legal system could, potentially, address the challenges that both legal and moral pluralism raise for the intelligibility of law. She describes the fact of legal pluralism and its impact on present-day legal practices, pointing out how bottom-up and top-down sources of law overlap and interact in complex ways not contemplated by top-down, Statist paradigms of law, giving rise to what Francesco Viola calls the "legal space." She argues that the fact of legal pluralism raises serious difficulties for the intelligibility of law, to the extent that society-wide and global laws tend to be ever more deracinated from embodied social practices. Finally, she argues that this problem seems to point us in the direction of a polycentric theoretical approach to the creation and adjudication of law, though this approach is quite underdeveloped in the philosophy of law.

Finally, in Chapter 9, "The Constitution of Liberties: Polycentric Constitutionalism and the 'Westminster Export Model,'" Elliot Bulmer argues that a polycentric political and legal framework may not necessarily require novel (or radically old) constitutional ideas and practices, but could be achieved within prevailing constitutional models. It is recognized that much of modern Western constitutional thought is based on monocentric notions: "the People" is often construed as a singular collective actor, expressing a "national will" and possessing nominal sovereignty, in whose name constitutions are made and remade, and from whom all public powers are derived. However, Bulmer reminds us that monocentric popular sovereignty is not the only foundation for modern constitutionalism. In particular,

while the British-derived constitutions that spread around the world in the decolonization era mostly copied the majoritarian governance structures of the "Westminster Model" parliamentary democracy, they also responded to the needs of divided societies by incorporating an array of innovative approaches to the problem of "deep, pervasive and persistent disagreements," including on matters of religion and identity (De Smith 1964). This final chapter shows how certain constitutional theories and practices are already compatible, in significant respects, with polycentric political systems.

This collection of essays aims to illuminate the idea of a polycentric society in a more comprehensive and multidisciplinary fashion than previous works. We hope that this more philosophically ambitious discussion of polycentric order will open fruitful and unexpected avenues of research, revitalizing the study of polycentric order both in the social sciences and the humanities. We are convinced that only by seriously engaging with and leveraging the ideas of polycentric systems of social organization and governance can we hope to build more resilient, tolerant, and prosperous democracies. We leave it up to the reader to judge whether we have succeeded in contributing, albeit modestly, to this important task.

NOTES

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2. This definition is broadly consistent with that offered in the introduction to the volume *Governing Complexity: Analyzing and Applying Polycentricity* (Thiel, Blomquist, and Garrick 2019).

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Chapter 1

An Ethical Case for Bottom-Up, Polycentric Governance in a Complex Society[1]

David Thunder

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. THE FREEDOM TO FLOURISH

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

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

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

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

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

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

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

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

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

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

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

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

(iii) The Complexity of Human Flourishing

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

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

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

(iv) Universal Requirements of Human Flourishing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. THE COLONIZING TENDENCIES OF THE SOVEREIGN STATE

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

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

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

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

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

(i) Individual and Corporate Voluntarism

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

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

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

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

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

(ii) A Preference for Proximity of Rulers to Ruled

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

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

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

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

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

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

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

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

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

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

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

NOTES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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