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Booknotes, April 2017

João Carlos Espada is a distinguished academic and political figure in Portugal, advisor to Presidents of that country, founder and director of the esteemed Institute for Political Studies at the Catholic University of Portugal, and a well-known commentator in his national press. He was also a friend of Karl Popper. In his new book (*The Anglo-American Tradition of Liberty: a View from Europe*, Routledge 2016) he tells of his first visit to Popper's house in England, when he expressed surprise at seeing so many of Winston Churchill's works on Popper's shelves. He was treated to a long and intense lecture on Churchill's political and philosophical significance, and on the way in his thought and action Churchill exemplified the sense of liberty dear to the English-speaking peoples. Underlying this sense was a mystery, 'the British mystery, the idea of the British gentleman, someone who does not take himself too seriously, but is prepared to take his duties very seriously, especially when most around him speak only about their rights'.

Popper then told Espada to study in Britain to get to grips with the specificity of the Anglo-American tradition of liberty. Popper spoke of this tradition as a crucial pillar of the western and European civilisation of liberty, which he (Popper) had defended in his own political philosophy. Espada took Popper's advice, and, more than a quarter of a century later, his new book can be seen as a way of fulfilling Popper's exhortation.

The book deserves attention from political philosophers in the Anglo-American tradition and even more from their students, not least because it includes a beautifully written account of Churchill's own rooted political philosophy. This was rooted in Magna Carta's sense of liberty and the deeply British sense of the sovereign (whether king or parliament) being subject to God and the law, together with a sense of concern for the weakest in society, constant throughout Churchill's long political life. It may well have needed a European perspective (Popper and Espada) to see in Churchill an important thinker, but in Espada's book we also get insightful discussions of figures representative of the tradition of liberty, recent ones such as Popper himself, Raymond Aron, Isaiah Berlin, Hayek, Leo Strauss, Oakeshott, and earlier ones such as de Tocqueville, Burke, Smith and James Madison (especially in *Federalists* X and LI). These are all important exponents of Espada's tradition of liberty,

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but they are frequently and perhaps significantly passed over in native Anglo-American treatments of political philosophy.

Espada's perspective is that Anglo-American/Churchillian liberty is essentially a matter of protecting individual choice and freedom. In itself it has no goal or direction, and is as much concerned with the enjoyment of settled ways of life as with the big political projects of political planners and rationalisers. It places great value on intermediate institutions, such as the family, churches and sectional enterprises, as well as education and the law as autonomous institutions, all standing between the state and the individual. It also recognises the importance for liberty of laws and obligations which are deeper and more certain than any individual pieces of legislation, however 'rational' they might seem. The rule of law is not the same as the rule of laws, this latter rule potentially dangerous to liberty, especially where the legislator is unhindered by anything more than his own will, however rational it might seem to him and his followers.

The purest opponent of the Anglo-American view is perhaps Rousseau, for whom nothing stood between the individual citizen and the general will. In Rousseau, in a parodic simulacrum of liberty, my own will, and everyone else's individual will was overridden by that of the community, or what was supposed to be that of the community. Espada quotes Rousseau as saying that under the general will, individuals 'have exchanged natural independence for freedom', adding drily that it was no wonder that Rousseau was Robespierre's favourite philosopher. For Rousseau (and indeed for many of those opposed to Churchillian liberty), private interests, factions and political disagreements generally are a sign of a diseased polity. Far from it, according to Madison, who struggled as much as anyone with the conflicting demands of made by the unquestioned need we have for government and by the countervailing need for government to control itself, not to overstep the liberties of individuals. For Madison, as Espada quotes him, 'liberty is to faction as air is to fire, an aliment without which it instantly expires'. But it would be as much a folly to extinguish air just because it causes fire, as to extinguish liberty because it nourishes faction. Instead, Madison goes on to argue strongly that faction and disagreement are the very things which hold back an over-mighty, unitary state, which would be the extinction of liberty.

Madison, and indeed the same letters, are also referred to in *Liberty and Equality in Political Economy: From Locke versus Rousseau to the Present* by Nicholas Capaldi and Gordon Lloyd (Edward Elgar, 2016), where many of Espada's themes are taken up again, but from a slightly different angle. Capaldi and Lloyd set their interesting

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treatment up in terms of a narrative running though political philosophy from the time of Locke (on the side of liberty) to the present day. And here Capaldi and Lloyd go beyond Espada, for they show that in western and even Anglo-American political thought there is a decidedly illiberal trend alongside Popper and Espada's tradition of liberty; this illiberal trend is the dominant academic trend indeed, that which ignores the Churchillians.

Capaldi and Lloyd organise their narrative in terms of the contrasts between those who advocated liberty and pluralism in political discourse and those who advocated specific, usually egalitarian, projects as the over-riding aim. In the latter camp we find, apart from Rousseau himself, such predictable figures as Marx and Engels, American progressives and New Dealers (with FDR consciously over-riding factions), Galbraith, Harrington, Rawls and Thomas Piketty. Among others, Smith, Madison, J.S. Mill, Hayek and Oakeshott make strong appearances on the other side; perhaps surprisingly to some, but convincingly enough, Keynes occupies a somewhat equivocal position. Among those on the side of liberty, Herbert Hoover is quoted as arguing that equality of opportunity is actually the *negation* of socialism, because it promotes rugged individualism and this promotes inequality (which is probably not what many who speak of equal opportunities to-day have in mind).

Although the treatment by Capaldi and Lloyd is even-handed enough, it is probably fair to say that their own position is summed up by what they say about the rule of law early on in the book: 'the rule of law then exists when individuals can pursue their own private goods without involuntary subordination to the goals of others or to an alleged collective social goal'. As we have already remarked, the rule of law is not the same as the rule of laws. And, considering cases of collective social goals enacted in the name of equality over the last two centuries we might think of Pascal's dictum that man is neither angel nor beast, and that it is unfortunately the case that anyone trying to act the angel ends by acting the beast.

This, of course, raises the question as to why political philosophy has tended to be dominated by would-be angels, who have not infrequently paved the way for bestiality, and maybe is still so dominated if the recent popularity of a figure such as Piketty is anything to go by. (As Capaldi and Lloyd conclude their treatment of Piketty and the book itself, 'the conversation goes on between the Liberty Narrative and the Equality Narrative', perhaps implying that it will continue to go on through whatever changes of political fortune occur.) Here Capaldi and Lloyd refer to the suggestion by Michael Oakeshott that the individualism promoted by liberal society

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brings in its wake not just the rugged competitors admired by Hoover, but also a mass of dysfunctional people, who cannot compete, 'anti-individuals' who cannot 'embrace moral maturity, individual freedom and responsibility'. As we have already seen Churchill was not insensitive to this problem, but where he advocated a net beneath which people would not be allowed to fall, another response (the equality response, the Rousseau-Rawls response) is redistribution on a massive scale, often coupled with blame and resentment against the successful. This, of course, will have the effect of massively increasing the power of the redistributor, that is, the state. So the people running the state – the often blame throwing politicians who lead the calls for redistribution – also become very powerful (and typically very rich, as they characteristically blame the successful for the plight of the 'anti-individuals').

This analysis has a certain ring of truth to it, at least as a description of contemporary political reality. But why is it that *intellectuals* tend to be attracted to this style of politics? There are, of course, arguments, quite strong arguments indeed, in favour of the equality narrative (which does not have to be framed in terms of blame and recrimination), but, as Capaldi and Lloyd show, there are equally powerful arguments on the other side. Yet, the vast majority of intellectuals and maybe of 'educated' people too, seem to favour the equality narrative against the liberty narrative. It could be that the taste of influence and vicarious power is attractive to intellectuals, who are often themselves penurious and powerless, at least as compared to their more economically successful peers, but this hardly seems a complete explanation of the massive imbalance of intellectual opinion on this matter (as the popularity of writers like Piketty attests). We still await a complete explanation of that superficially puzzling phenomenon.

Whatever might be said on the question of intellectual opinion-formation, it is appropriate at this point to mention a third recent book on the development of liberal thought and practice, though one which is considerably less sanguine than either Espada or Capaldi and Lloyd. The book is *The Demon in Democracy: Totalitarian Temptations in Free Societies* by Ryszard Legutko (Encounter Books, 2016). Its author is a Polish academic, Professor of Philosophy at the Jagellonian University in Cracow and also a member of the European parliament, who in earlier times had co-edited a samizdat journal connected to Solidarity.

Legutko's thesis is that totalitarian tendencies of thought control, similar to those he had experienced under Polish communism, prevail in today's western democracies, notably including the

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European Union. On the face of it, this must seem absurd, or at best highly exaggerated; it may even be offensive to people who have suffered under totalitarian regimes of censorship, imprisonment and worse. It is clearly not true (or not clearly true) that the same type of suppression or repression goes on today as did in the Soviet bloc before the fall of communism, or even in right wing dictatorships, such as those in Spain, Portugal and much of South America.

However Legutko must be credited with knowledge of Soviet style repression, even if there are ways in which his thesis is tendentious and exaggerated. It is not so clear that the commitment to freedom of expression which all western democracies publicly commend actually amounts to all that much in certain cases and on certain topics, even in academic circles. Public opinion, peer pressure, threats to job prospects, internet abuse, all manner of adverse publicity and even at time police investigations are likely to attend anyone who is thought to have offended speech codes on racial and sexual matters, to say nothing of people objected to being barred from speaking even or especially in institutions of higher education, let alone being published in respectable journals or books.

Even expressing scepticism about such matters as climate change or the benefits of immigration, or doubts about changes in the nature of the family and over possibilities of procreation, is likely to bring a heap of opprobrium on the offender's head, far more than would be reasonably called for by a simple intellectual disagreement. Nor is any robust defence of the nation or of traditional Christian religion likely to do the proponent much good among those in positions of power in the media and academic life, or even in the politics of the EU, (though criticisms of Islam are routinely dismissed as 'Islamophobia', and offenders publicly denounced). In this world of thought policing there are also show trials, formal or informal, often followed by abject confessions and undertakings to reform, all of which is probably as influential on any tempted to err as on the guilty party him or herself. Thus discussion is stifled.

It is not necessary here to go into any detail on the nature or extent of this new censorship, nor should we deny that some of the things objected to are offensive, vulgar and stupid. What is worth considering is Legukto's analysis of the phenomenon. What he suggests is that just as in communist days any attack on the Party was absolutely ruled out, so in today's liberal democracy it is becoming increasingly hazardous to go against what has become the liberal orthodoxy on sex, race, religion and much else besides. (Whether this continues to be so in the world of President Trump and Brexit remains to be seen.)

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In the type of regime Legutko objects to the liberal state is no longer conceived as merely holding the ring so as to allow all manner of opinion and behaviour to flourish in a pluralistic way. The liberal state, or perhaps better, sections of the liberal state, including the media and academia (though Legutko does not make this qualification), now have a whole progressivist agenda of its own, which it is using all its power to enforce. Opposition and dissent are crowded out and shouted down. In Oakeshottian terms the state has ceased to be a civil association, with no end other than upholding a space of freedom in which individuals and institutions could work out their own ways of living. It has become an enterprise association, seeing its role as being the promulgation and enforcement of a particular moral-cum-political agenda (roughly an uneasy combination of moral relativism, unnnaturalism on matters of gender and political egalitarianism). In so doing it stifles dissent both informally, as we have seen, and even formally by increasingly intrusive laws regarding 'hate' speech and the like, to say nothing of the stipulations of quasi-regulatory bodies such as school inspectorates and curriculum authorities.

Legutko writes from a traditionally Catholic perspective, and is clearly concerned that views which only a few decades ago would have been quietly held by large numbers of law-abiding people, and which can still be defended in reasonable ways, are in effect being silenced. But one does not have to share his perspective to be alarmed at the situation he describes. The totalitarian temptations he refers to certainly go counter to everything that John Stuart Mill wrote about free speech and about the absolute necessity of dissent on prevailing currents of opinion for a genuinely liberal society. If Legutko is right, rather than the open society advocated by Mill, we seem to be closer to the soft despotism predicted by de Tocqueville, in which egalitarian democracy, or those who see themselves as its guardians, is imposing a suffocating conformity on public opinion, in line with its own tastes and prejudices.

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