The Multiculturalism of Fear
Jacob T. Levy

This work argues for a liberal account of multiculturalism, which draws on a liberalism of fear, like that articulated by Judith Shklar and inspired by Montesquieu. Liberalism should not be centrally concerned either with preserving or with transcending cultural communities, practices, and identities. Rather, it should focus on mitigating evils such as interethnic civil wars, cruel practices internal to cultural communities, and state violence against ethnic minorities. This ‘multiculturalism of fear’ must be grounded in the realities of ethnic politics and ethnic conflict. It must therefore take seriously the importance, which persons feel their ethnic identities and cultural practices to have, without falling into a celebration of cultural belonging. Levy argues against nationalist and multicultural theories that accord significant moral weight to cultural communities as such. Yet he also insists that the challenges of life in a multicultural world cannot be met with appeals to cosmopolitanism, with attempts to deny the importance that particularist identities and practices have to individual persons and to social life. The book applies the multiculturalism of fear to a variety of policy problems confronting multi-ethnic states. These include the regulation of sexist practices internal to cultural communities, secession and national self-determination, land rights, customary law, and the symbols and words used by the state, including official apologies. It draws on cases from diverse states such as Australia, Canada, Israel, India, South Africa, and the US.
This chapter begins by analyzing Judith Shklar's early book, Legalism. An Essay on Law, Morals and Politics, in which she distinguishes among aspects of legalism as ideology, as creative policy, and as an ethos of the law. Shklar was unable to explain how these various dimensions of legalism could be reconciled plausibly with one another. Furthermore, while her critique of criminal international law is being revived today in the name of a certain skepticism toward institutions of international law, this critique needs to be balanced against her full-throated defense of the legitimacy of the Nuremberg trials. The final part of this chapter presents the complicated relationship of law and politics in Hannah Arendt's and Shklar's works.

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A liberal political theory, which is centrally concerned with preventing political violence, cruelty, and institutional humiliation, one that draws on Montesquieu, was named ‘the liberalism of fear’ by Judith Shklar. Such a liberalism must come to terms with the facts of multiculturalism, since ethnic and nationalist conflicts are among the most important sources of those evils. Such a liberalism of fear is a useful normative theory for thinking about multiculturalism and ethnic conflict, preferable to a multiculturalism of recognition, a multiculturalism of rights, and consociational pluralism. Political theories that are chiefly concerned with avoiding evils need not be liberal, and liberalism need not have that character; but a liberalism of fear is particularly well suited to the analysis of multiculturalism.

Innocent Citizens, Guilty Subjects
Andrew Dilts

in Punishment and Inclusion: Race, Membership, and the Limits of American Liberalism
This chapter takes up the relationship between suffrage, slavery, and punishment in the US through a critique of Judith Shklar’s account of citizenship as standing. Shklar argues that citizenship is an expression of a relational public standing signified by the rights to work and vote, rather than a legal status. Shklar does not acknowledge, however, that these rights are instrumental in producing the identities of groups within a polity, causing her to insist that universal suffrage has been achieved in the US despite the longstanding exclusion of criminals. This “blindness” to criminal exclusions is symptomatic of a broader liberal blindness to the discursive fabrication of criminological figures. Through the work of Joel Olson, W.E.B. Du Bois, and Ida B Wells, this chapter demonstrates Shklar’s presumption of an underlying “truth” to the moral standing of criminals. Yet there is little reason to assume that categories of “guilty” and “innocent” are stable reflections of one’s actions, but rather are built on previous notions of membership and labor under chattel slavery. The perverse outcome is that voting becomes a fetish object; it is not simply a demonstration of membership and political standing but an expression of innocence purchased on the backs of felons.

Violence against Women: Challenges to the Liberal State and Relational Feminism
Jennifer Nedelsky

in Law’s Relations: A Relational Theory of Self, Autonomy, and Law
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Item type: chapter

Chapter 5 opens with the claim that the liberal state has failed to protect women and children from violence. We must therefore rethink the role of the liberal state and the conception of rights optimal for making good on liberalism’s most basic aspirations. The chapter shows how the relational approach provides a better way of understanding the problem of violence and of assessing solutions than the traditional liberal, boundary based conceptions of rights. Violence, however, also powerfully evokes the need for legally protected boundaries. Thus violence against women poses a challenge not only to liberalism, but to my project of replacing boundaries with relationship as the central organizing concept for rights. I take up this challenge to the relational approach in the context of the liberal state’s failure on its own terms. This challenge also allows me to further address one of the key anxieties that I think my approach provokes: this sort of relational analysis will lead to a vast expansion of the scope of the state. Juxtaposing Judith Shklar and Robert Cover,
I argue that rethinking the role of the state is essential to dismantling hierarchies that are embedded in the culture and sustained by “private” violence.

Isaiah Berlin
Seyla Benhabib

in Exile, Statelessness, and Migration

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This chapter analyzes Isaiah Berlin's work, stating that the relationship of liberalism to Berlin's value pluralism remains fraught, as does the question whether value pluralism can avoid relativism. Notably, Judith Shklar and Berlin admired each other and shared a skeptical temperament as well as a dedication to the study of the history of ideas as the indispensable method of pursuing political philosophy in their time. Neither shared Hannah Arendt's conviction that the legacy of failed revolutions could only be countered by the activist civic republicanism of self-governing communities. The chapter also contextualizes the varying views of Berlin's work and persona through the prism of Max Weber's doctrine of value pluralism.

Liberal Alternatives
Matt Sleat

in Liberal realism: A realist theory of liberal politics

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This chapter examines two possible alternative liberal theories that prima facie have the possibility to overcome the realist challenge to liberal theory without having to abandon the consensus vision of the political: the liberalism of fear and modus vivendi. The strategy of both approaches would be to reduce the content of the consensus required to maintain the liberal vision of the political to very minimal and hence universal commitments such as the avoidance of fear and the desire for peace. Both approaches are explored in detail but ultimately rejected as still being vulnerable to the realist challenge insofar as they rely upon notions of consensus that are inconsistent with political realism.
This chapter investigates Montaigne’s fascination with the irreducible diversity of human beliefs, opinions, and forms of life. Montaigne uses his literary self-portrait to model a new attitude toward this diversity. Instead of fearing or fighting it, Montaigne portrays himself as experiencing pleasure in direct contact and dialogue with a diverse range of people, especially members of other religions and cultures. He expresses this pleasure both directly, by telling us about his own joy in these encounters, and indirectly, with comical, carnivalesque forms of prose. The chapter then compares this theme of the Essais with Judith Shklar’s use of Montaigne as a model for her conception of a “liberalism of fear.”

Theorizing Resentment and Indignation
Mihaela Mihai

Building on insights from moral and social psychology Chapter II offers a philosophical account of resentment and indignation, theorised as negative feelings associated with a violated sense of justice. This foray into the morphology of the sense of justice strengthens the arguments presented in Chapter I and provides a framework within which to address the second programmatic question: How should societies distribute post-oppression justice with a view to reproducing democracy institutionally and culturally?