

Closing Address*

Mark KINGWELL**

I want to reflect on some of the themes that unite your concerns with mine. In fact, I think they are our shared concerns as citizens of the world.

My remarks will try to bring together a number of things that were said before but not in any attempt to engineer a total solution. In fact, this desire for the total solution is part of what we need to probe and examine. Oftentimes I think we try to make theoretical reflection play that role. We think, if somehow we could only find the master key to our problems or set of problems, then our work would be clear. This, of course, is rarely if ever how it happens. We get a sense of this when we think about the complexities of the political issues before us, both as ordinary citizens and as administrators of justice. That complexity never goes away; if anything, it ramifies and increases as time goes on. In a sense, we have to make our bargain with complexity, not in trying to defeat it but in accepting the demands it places upon us. I want to link this up with some very basic human questions that are at the centre of political life.

Are you conscious? When we ask this question of ourselves, it becomes clear that the basis of ethical and political problems is, in fact, epistemological. We are only ever conscious of ourselves alone; we cannot be conscious of anyone else. It is a strange but irreducible fact of human consciousness that it is trapped in this way within itself. We cannot gain access the consciousness of another. Of course, that doesn't

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** Author of "The World We Want: Virtue, Vice and the Good Citizen", Professor of Philosophy, University of Toronto, Toronto, Ontario.

mean that we have to stay in that position of uncertainty or solipsism forever. True, when we follow through our thoughts about consciousness, what we realize is that I alone am conscious and there is nothing else conscious that I know directly. But this is intolerable, and so we do not remain long in that position.

Indeed, Descartes famously notes how hard we have to work to put ourselves in that position at all; it is, from the point of view daily life, decidedly unnatural. Instead, a whole bunch of working assumptions are put in place to assume the consciousness of others: this is what the novelist E. L. Doctorow, following both Descartes and Wittgenstein, referred to as “democratic solipsism.” I know only myself, but I need to assume that you—looking and acting relevantly like me—are similarly situated. On that basis, we construct what we choose to call a shared world. The foundations of that shared world remain, however, working assumptions; they are fragile interpersonal constructions, really, not foundations at all. This is worth bearing in mind at the most basic level, because many of these working assumptions form the infrastructure of political life.

We negotiate the world of inter-subjectivity with relative degrees of flair. Some of us are better at it than others, always assuming that the other entities that we encounter are conscious in the same way that we are, in some important respects. This is how we build the world, by trying to extend our conscious thoughts across what is, in fact, an unbridgeable gap. We build various kinds of illusory bridges but these are shared, or appear to be, and this is how we get on with the business of living in the world. We do this with lots of tools at our disposal. Language is one, a central one. I am using it now to attempt to bridge the gap between my consciousness and yours. Languages, institutions, behaviours, forms of life, conventions, all of these are ways of constructing a web of interrelations among what are, in fact, isolated consciousnesses.

Now, the other key feature of consciousness, as it arises for humans of course, is that it comes packaged in this particular biological form, in meat. Consciousness arises in meat. This is not a new idea, it goes right back to Plato’s discussion of the matter in his dialogue “Phaedo,” one of the dialogues which happens in the time between Socrates’ conviction and his execution. In the Phaedo, Socrates says he does not fear death because death will be the freeing of his soul which, on this mortal plane, is trapped in a kind of prison, the body. Of course, if we cannot be confident that the soul or the consciousness persists beyond the

existence of this “meat cage,” this confidence that Socrates evinces in that discussion becomes much harder to undertake. What if my consciousness simply dies when the meat housing it is no longer functional?

Even before we get to that point, however, we have various problems associated with the fact that consciousness is wedded in this way to the flesh. The most obvious is that we feel pain and, further, that our ability to feel pain is something which is only partially managed by the other tools that I spoke of before, language and institutions and conventions. And sometimes, gruesomely, the ability to feel pain is used for political purposes by humans on humans. Just as war may be defined as the achievement of political goals through the destruction of tissue, so torture may be defined as the achievement of political goals through infliction of pain. So there is a sense in which our fleshly existence has to be reflected upon and put at the center of all of our thoughts of ethics and politics. I think that this is too often forgotten, this idea that the embodiment of consciousness is really the first principle of ethics and politics.

I used to talk about this with my older brother, who is an engineer. If you were constructing a vehicle for consciousness, you probably wouldn't choose meat. If it was up to you, in other words, if somebody said “I give you the job of putting consciousness in material form, what do you choose?” You wouldn't choose meat if you were a good material scientist. Think of it: meat is wet, vulnerable, and rapacious of resources: we have to keep putting stuff into it to have it persist through time. No, you would probably choose titanium or plastic or something like that. Put the consciousness in that! Some people dream of this, to be sure. There are nanotechnologists and other cutting-edge scientists who want to work on the problem of getting consciousness out of this biological form and into some other, more stable form. But this is, in some ways, literally unimaginable because insofar as consciousness does have this biological form, it takes on a particular character; we, here and now, cannot conceive consciousness except as fleshly. Indeed, this is what we mean when we talk about “the self.” The “self” is not just consciousness but embodied consciousness. That is why torture, for example, is not just the infliction of pain, but rather, as George Orwell demonstrates so vividly in *Nineteen Eighty-Four*, the attempted destruction of the self.

So what follows from this, politically speaking. Well, it is true that nobody can feel anyone else's pain. This is part of what it is to be isolated as a consciousness. The former president of the United States was literally speaking nonsense when he said: "I feel your pain." He doesn't, he can't. He feels only his own pain. That is true of everyone. But, as humans, we appear to have the ability to feel a certain kind of pain which is pain at the pain of others, otherwise known as compassion. Compassion has a troubling but central role when related to the issue of justice.

Compassion is really about our relationship of self to others and how much compassion we feel is variable and sometimes unstable—that is why compassion is both central to justice, and troubling in that centrality. It has been proven, for instance, that compassion is subject to geographical proximity. We feel more compassion for people who are physically closer to us. We tend to feel more compassion for people who look like us than those who don't. We tend to feel more compassion for those who live like us than those who don't. It is for this reason that judges and others who consider the questions of administering justice have often been mistrustful of compassion-based arguments because they seem to be partial in just the wrong kind of way. For instance, I would say that perhaps arguably the most influential theory of justice in the last 30 years, John Rawls's notion of justice-as-fairness, works by excluding partial consideration by imposing ignorance as a constraint in the famous "original position" thought experiment. This procedure has been much criticized, and I am sure this is well known to all of you, for the unreality of that attempt to realize justice. We may have to criticize or probe the role of compassion and other forms of partiality, but we cannot take ourselves out of the world if we are going to be good administrators of justice.

What does this mean in terms of citizenship and citizen participation? The story of citizenship is a complicated one. I want to say some very basic and perhaps crude things, perhaps things you already know. I have to thank Professor Macklin for emphasizing the point that citizenship is often exclusionary, sometimes viciously so, and perhaps we have lost sight of that important counterbalancing insight about the nature of citizenship. It has often been used to keep others out, not bring them in, and in fact if you look at the history of citizenship it has served that purpose more often and more powerfully than anything on the opposite side.

Citizenship begins with shared bloodline. People take account of their biological interdependency and try to preserve it. The category then branches out into forms of shared belief which are still, however, very exclusive. Citizenship only enters the modern era—and of course, for us in the West the modern era begins around 1600—with the creation of a law that can transcend differences of belief. And this, of course, is the great liberal project, to have law which is able to negotiate, manage and perhaps even sometimes resolve conflicts of belief.

I think we find ourselves now in a transition period. This is certainly something you all know. In the last 50 years, roughly the half-century from John Humphrey to the Rome Treaty, we have seen the limits of that liberal version of law as the world has grown in interdependence and complexity. Now the issue of participatory citizenship is before us in an unignorable way—not just in the form of asking how we allow or encourage existing citizens to participate in their own systems, but also in asking whether participation itself may be the proper new basis for judgments of citizenship. This takes us well beyond where we are now and I think we are moving by steps, sometimes unfortunately by missteps, to realize these new goals, to achieve what Rawls himself, in a late work, has labeled *The Law of Peoples* (though whether his route of justification for this Law is valid remains controversial). By and large we are, in other words, moving transnationally, but there are also various rearguard actions we have to be aware of.

Is participatory citizenship a step in the right direction? Last fall I was speaking in Prague just before the meetings of the IMF and the World Bank to a group of anti-globalization protesters. I was struck by the fact that everyone in Prague seemed to be an anarchist. If you ask them what their political sympathies are, they invariably say, “I am an anarchist.” You are never really sure what that means, of course. Probably all it really means is that they don’t like government because all of the government they have experienced has been repressive in one way or another, hard or soft. They are very much anti-law, in short. So the question was posed to me, why talk about citizenship at all if it has this exclusionary character? The answer to that is, it is the only language we have which will avail us of this opportunity to take account of our interdependence; to negotiate our relations of self and others.

Of course, we have to be mindful here that this is a project without end. I mean that literally. I was thinking about this in the last few weeks. I don't think anybody can reflect on these questions in quite the same way now after September 11. I was struck, as I am sure some of you were, by the original name for the retaliatory action, "Operation Infinite Justice." I thought: "infinite justice" is a phrase that we need to think about, but not in that context! The pursuit of justice is indeed infinite and I think here of Emmanuel Levinas's work on totality and infinity. Levinas, whose thought is not well enough known, notes that totalizing systems, totalizing relationships, give in to the desire I started with, namely the desire to get outside, circumscribe and solve—to somehow "get the better of the world." Infinitizing relationships, on the other hand, acknowledge our finitude by seeing and accepting that some tasks go on forever. We may need regulative ideals to judge what we call progress, but we have no final endpoint to reach. Indeed, this is what we are presented with in the task of justice. One of the reasons that the justice project is infinite is that there is always an "unresolved remainder" in our pursuit of it. I think we have been forcibly reminded of this in the last few weeks. There are things that will not be encompassed; there are always going to be margins.

I want to tell you a quick personal story that in some ways is unremarkable but brought this idea powerfully to my attention. Last year my apartment was burgled. I was there when it happened. I was asleep and woke up when I realized someone was walking down the hallway past the open door of my bedroom: the creaking of the floorboards had woken me. It was, as you can imagine, a deeply unsettling experience. The burglar saw that I was awake and ran out the front door. I lay there for one of those three-second intervals that seem like an eternity, thinking about what I should do. Here, my dwelling, my place of security has been penetrated and entered. What now?

Now, I don't usually wear anything while I am sleeping. This created a second issue. Not only what I should do, in other words, but also how I should attire myself. It was summertime, though, so I jumped up, quickly put on a pair of boxer shorts and ran out the door after him. There I was, barefoot, no shirt, just the boxers. He was running down the street and so was I; it was 4:30 in the morning. It was a spectacle probably not soon to be repeated: the fleeing burglar and the 37-year-old philosophy professor half-naked running after him down the street.

I live in a very quiet neighborhood, it was dark, and there was no one around. And down at the end of the block, I caught him, because I 'm pretty fast. But then I had this kind of weird existential-phenomenal encounter. Because what do you do then? What is your move? This is not the part that you think about as you are dashing out the front door; it is pure adrenaline at that point. He knew that he had me, too; he knew that he was outside of my game. Here we were standing at a place where my rules weren't the rules, because I had nothing to back them up. He said he had taken nothing from the apartment. I'm sure that he didn't think I was home, actually, because burglars like this don't typically break into places where they think people are. Now he just stopped and stood and looked at me as if to say, "What are you going to do?" And I realized I had nothing to offer. What are you going to do at that point? You wait right here while I call the police! Don't you move a step, my friend! Or: "If I ever catch you in my house again, I'm going to kick your ass."

Then I thought, I could try and kick his ass right there, try and drag him back to the house, shouting for help. But what if then my neighbors go all who's-Kitty-Genovese on me and pretend to be asleep? Really, I'm all alone out there on the sidewalk; there isn't really anything for me to do. So I walked back to the house. And I thought: this is, in part, a reminder of the unresolved remainder of all political life! If the rules are not accepted as rules, then they don't bind. We can enforce them if we have the means, but sometimes we don't; and the frustration I felt and that kind of wonder is a good reminder of that status our rules have. They are not here by divine fiat, we have built them ourselves. We have done a good job with them, yes, but they are contingent, not necessary, and we have to remember that as we try to apply them. At the same time we have this difficulty that if we don't apply them robustly, if we don't apply them as if they are firm and necessary, they can fail. Thus a central paradox of liberal justice. We must hold together in our minds both the fact of the contingency of rules, and our pragmatic need to make them robust. The difficulty is how to embrace challenges that remind us of contingency without letting that slide into a kind of dissolution of the firmness which we, together, have built up over centuries.

This is my Habermas reference, then, because what I think I see here, what I am reminded of constantly, is that in the pursuit of infinite justice there is a combination of the transcendental and the pragmatic. There is a desire always to have more justice, to extend the reach of our rules. I listened carefully this morning and learned a lot. I only just read about the Suresh case last week so I am an absolute beginner when it

comes to this but I am struck by these problems of implementation over and over again—how, in order for implementation to be powerful, it has to be firm, has to be undertaken with conviction at the same time that we realize that there are gaps that we cannot fill and there is reach that we cannot extend to. Implementation is suspended between a fragility we must acknowledge epistemologically, and a solidity we must insist upon if any sort of progress is possible. And, too often, the question of how to do this becomes bigger than we would like.

At the centre of that question, there is this idea that each one of us, each consciousness, counts for one. This, of course, is simply expressed but difficult to really think about. Each one of us counts for one. Why? Because that is the way we have decided it should be, in large part. Because we know what it feels like to be one and we feel bound to extend that to everyone and perhaps beyond human consciousness to other forms of life also. This is our infinite attempt to cope with the otherness of other minds, even as we know for certain only our own. In a world now with more than six billion people in it, six billion consciousnesses each counting for one, the question of justice can look too large. How do we take seriously the rights of all those individuals? How do we extend to them the protections we crave for ourselves? There is so much even in existing ratifying treaties. What about all of the extensions that we have yet to effect? How do we cope with the cacophony of possible claims—for recognition, for security, for happiness?

I will close with a small suggestion for how to think about this. This is not a practical solution, or even a theoretical answer that will be open to application; rather, it is an instance of what philosophers may actually be good at offering, namely a possible reorientation of existing thinking. I did write a book of justice theory once upon a time, as it happens, where I offered what purported to be a applicable solution. Later I realized that, like most philosophers, I had a black box view of the relationship between theory and application. Application was “over there” somewhere. I would do the theory and I would give it to you and then the application would happen in this enclosed opaque space that I didn’t have to pay attention to, because I was the philosopher and you, thank god, were the judge or legislator. That is what happens when you go to grad school in philosophy. You get that view of things that says theory can exist apart from application. But of course it can’t. And so when I think about this issue of application, I always think of the one truly memorable thing I heard a professor say during graduate school. Jonathan Lear, who I

think is a brilliant man, said to me once, “Socrates’ question—How ought I to live?—is not a question for later.”

And I thought, that’s right. Because the question of how to live is a question of what I do in the next hour, the next day, the next week. Life, which is this big project, this big story that I am trying to tell, a narrative reflection I impose in an attempt to make sense of my life, try and give it direction, try and make it a project with integrity and coherence—life is made up of all of the individual actions that I undertake. The question of how I ought to go about telling that story is not something that I can put off. It is something to be addressed at the weekend, because I am living my life at each moment. It is not, more to the point, something that awaits the correct theoretical answer before it can be undertaken. There is no correct theoretical answer, just a series of contingent attempts (which we must nevertheless sometimes view as not contingent) to make things more equitable, more just, more in keeping with what we desire—for ourselves and, by extension, for everyone.

And, just as there is that relationship of scale between the large project of the life and the minuscule and sometimes apparently trivial choices we make from moment to moment, I think it helps us to remember the largeness of our global project is itself constituted by millions of small interactions and decisions. A system is made up of individuals. We conscious beings make choices. Sometimes when we look at the largeness of our task—the task of infinite justice—we feel overwhelmed. We think, it’s too big. It’s too big for us to handle, it’s too big for me to make a difference, it’s too sprawling and complex. That’s when we have to remember that there are places where we ourselves loom large. That feeling of being insignificant can be translated into the actions and decisions of significance. Not only is justice infinite, but our commitment to it must be as we orient ourselves to our everyday lives and as we participate as citizens. We have to have confidence, within our unavoidable epistemological aloneness, that each action, each decision makes a difference outside—that it is the sum total of all of these actions and decisions which creates the world, and which alone can make the world a better place.

That’s when, despite everything philosophical we know to contrary, it’s impossible to feel truly alone.