Critical Dialogue

Birth of the State: The Place of the Body in Crafting Modern Politics. By Charlotte Epstein. New York: Oxford University Press, 2021. 352p. $99.00 cloth, $29.95 paper.
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Charlotte Epstein has written the definitive account of how the state and the political subject emerged together in early modern England. Taking the body as her "lens" or "optic" (pp. 2–5), she shows how new understandings of space, movement, matter, and nature in the seventeenth century unsettled medieval forms of political order and ushered in the form that we now take for granted: the territorial state, concerned with security above all, with its rights-bearing, property-owning subjects. The aim of the book is both historical and critical. In addition to excavating the ideas that made possible the "corporeal" ontology of the modern state, Epstein uncovers the series of exclusions of gender, race, and class that were embedded in this form of political order from the very beginning.

The book has three parts, which examine three of the categories that structure the relation between state and subject. Part I shows how, from Hobbes onward, the concept of the body served to naturalize the state's fixation on security (chapters 2 and 3). Part II traces how the communal liberties of the medieval body politic were transposed onto the individual body (chapters 4 and 5). Part III shows how the idea of the laboring body, beginning with Locke, brought about the shift from communal property to private property (chapter 6). Chapter 7, the final main chapter, stands outside of this three-part structure. There Epstein explains how the public anatomy lesson—a public dissection of a human body—served both to propagate the epistemology of the scientific revolution and to demarcate the limits of the law. Thus, she argues, "science and the state were born hand in hand" (p. 222).

Birth of the State makes major contributions to the fields of international relations (IR) and political theory. Not only does it provide a novel account of the origins and epistemological foundations of the modern state; the book also offers original interpretations of early modern political and scientific thought. Epstein's macro-historical narrative is built on a fine-grained and rigorous analysis of texts. Although she is known primarily as an IR scholar, she is no dilettante when it comes to the history of political thought: Epstein can contend with the best of Hobbes and Locke scholars. She also shows an impressive range. Among others, she discusses Aristotle, Galileo, Thomas Aquinas, Francis Bacon, William Blackstone, Edward Coke, René Descartes, Robert Filmer, William Harvey, Johannes Kepler, and Samuel Pufendorf—in each case, with insightful analysis of the primary texts. Historians of science, as well as historians of political thought, will find much of value in this book.

Epstein places herself on "the critical or radical side of the spectrum" of constructivist IR scholarship (p. 5). She is doubly indebted to Foucault: first in her focus on the body, and second in her genealogical approach. Yet, Epstein does not merely read Foucault's biopower back into the origins of the state. Her "constitutive constructivism" (p. 7) is a synthesis of insights from many other theorists and disciplines, from R. B. J. Walker to Reinhart Koselleck and from intellectual history to visual studies. Her approach to textual interpretation is broadly contextualist and apparently influenced by the Cambridge School (e.g., Annabel Brett and Quentin Skinner), but with the critical edge and the anti-essentialist orientation of radical constructivism. This synthetic approach cuts in two directions. In addition to developing a critical interpretation of early modern political thought, Epstein develops a historical critique of Foucault. Whereas Foucault traces the origins of biopower to the eighteenth century (e.g., Jeremy Bentham), Epstein argues that actually "Locke marks the passage from 'punishment' to 'discipline' that Foucault (1995) identified as the threshold of political modernity" (p. 163). This claim will, no doubt, generate significant debate among political theorists.

Epstein's revisionist reading of Hobbes is equally intriguing. Far from being a canonical figure in the realist tradition, she argues, Hobbes was actually "the first constructivist" (p. 73). Here Epstein follows Richard Flathman, Philip Pettit, and others who emphasize the importance of artifice in Hobbes's thought. For him, justice, the state, and even patriarchal rule were not natural; they were constructed using language, which is itself artificial (pp. 93–99). With his nominalism, Epstein shows, "Hobbes opened up a *beyond nature* for modern politics" (p. 76). Yet, "having staked out the path of

constructivist political theorizing, he turns back at the last minute to the body," ultimately grounding his theory of politics in the allegedly natural imperative of self-preservation (p. 100). The few antiquarians who will charge Epstein with anachronism here can safely be ignored. Although she gives Hobbes a contemporary label, she is careful not to use it as a vessel to smuggle contemporary ideas into her interpretation of Hobbes.

The problem with Epstein's proto-constructivist reading of Hobbes is, if anything, that it understates his constructivist credentials. According to Epstein, "'human' ('man,' rather) and 'subject' constitute, with the body, the main categories of his political thought" (p. 80). The missing Hobbesian category here is "person." Whereas Epstein discusses Locke's idea of personhood at some length (pp. 204–5), she devotes only half a paragraph to Hobbes's (p. 204). This is peculiar, because personhood is one of the primary sites of social construction in Hobbes's thought. Personhood is the link between nominalism and artifice; it is the concept that Hobbes uses to explain how naming can bring new entities into being. Chapter 16 of *Leviathan* ("Of Persons, Authors, and Things Personated") is the bridge between Part I ("Of Man"), about the natural realm of bodies, and Part II ("Of Common-wealth"), about the artificial realm of politics. It is in this chapter, with the concept of personhood, that Hobbes creates space for socially constructed entities that are untethered to the material world. As Hobbes makes clear, personhood is a representational or theatrical concept, not a corporeal one. Persons need not correspond to bodies: "An Idol, or meer Figment of the brain, may be Personated; as were the Gods of the Heathen" (*Leviathan,* chapter 16). This helps explain how, in Hobbes's own account of the "birth of the state," many bodies become one person: "A Multitude of men, are made *One* Person, when they are by one man, or one Person, Represented" (*Leviathan,* chapter 16). To her credit, Epstein recognizes the "performative" character of Hobbes's concept of personhood (p. 203). Yet, as if blinded by her own corporeal lens, she does not explore what Hobbes *does* with this noncorporeal concept of personhood. Regardless of this omission, Epstein's reading of Hobbes is insightful and thorough. Remarkably, she manages to persuasively cast Hobbes as "the first constructivist" while barely mentioning his most constructivist concept.

Another peculiar omission is that Epstein does not address the recent book that is, on the face of it, the closest to hers: Bentley Allan's *Scientific Cosmology and International Orders* (2018). Like Epstein, Allan explores how the scientific revolution gave rise to a new form of political order in the early modern period. Their historical narratives intersect, and they feature many of the same characters, including Bacon, Copernicus, Descartes, Galileo, Harvey, and Hobbes. It is odd that Epstein does not even mention Allan's book. It may be that her manuscript had gone to print before his was published.

I am certainly not suggesting that Epstein's book duplicates Allan's in any way. On the contrary, after reading both (but only *after*), the fundamental differences are clear to me. First, Allan and Epstein are concerned with different levels of analysis. Whereas he focuses on how scientific ideas shaped international orders, she focuses on how scientific ideas shaped the state. Second, Allan and Epstein differ markedly in approach. Whereas he is concerned with *changes* in political orders over time, she is concerned with the *origins* of a specific political order. His story stretches from 1550 to the time of writing, whereas hers is squarely focused on the seventeenth century. More fundamentally, although Allan and Epstein both belong to the constructivist tradition, they sit at opposite ends of the spectrum. Allan's constructivism is that of mainstream American IR. His aim is to explain, largely in causal terms, how changes in "scientific cosmology" brought about changes in international order. Epstein's constructivism is more radical and is rooted in the European continent. She eschews causal explanation in favor of constitutive theorizing, hence her "constitutive constructivism" (pp. 5–7). Further, her aim is not only to trace how scientific ideas brought about a particular kind of political order, but also to uncover the forms of domination and exclusion on which this order was founded and that these scientific ideas served to naturalize and legitimize. Nonetheless, it is unfortunate that Epstein does not address Allan's account of how science and politics came together in the early modern period, because she is undoubtedly the best equipped to critique it. It would be interesting to know whether she agrees with my characterization of the differences between the two projects.

Response to Sean Fleming's Review of *Birth of the State: The Place of the Body in Crafting Modern Politics*

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— Charlotte Epstein

I would like to thank Sean Fleming for his careful and incisive reading. There is little I disagree with, except for the minor point of his description of my take on Hobbesian personhood. It is the case that I am more interested in Locke's "person" because it has more decisively shaped contemporary notions of selfhood and personal identity. However, my treating Hobbes as the pivot between a theological, trinitarian personhood and Locke's idea shows the extent to which I apprehend Hobbes's concept in metaphysical, not corporeal terms. Indeed, this theological notion is key to the magical, decidedly *non*corporeal operation, whereby the one becomes the many (and vice versa), that Hobbes also needed for his theory of representation and in ways Fleming shows. This enables me to clarify an important point about my corporeal lens;

namely, that it is not simply (dogmatically, nor indeed, I hope, blindly) applied everywhere. Nevertheless, the disagreement is minor, insofar as Fleming's embrace of what I have called Hobbes's constructivism with regard to the Hobbesian concept—which he has considered more closely than I have (personhood)—reveals a perhaps unexpected resonance between our readings on this point.

Fleming invites me to engage with the differences between my book and Bentley Allen's *Scientific Cosmology*. My focus is neither on (in Fleming's words) "ideas" only, as is Allan's; it is just as much on *practices*, legal and medical notably. Nor is on how science "shaped" the state, but just as much on the other way around; that is, how they mutually constituted one another, notably around the dissected body. This ability to apprehend "the other way around" is what is missing in causal thinking, which is always unidirectional: from the "cause" to the "effect that must therefore be held strenuously separate. It misses much of the complexity of what it sets out to study. To give but one example, in Allan's reading, *raison d'état* is collapsed onto state interests (p. 99), rather than seen as indexing, much more richly, a distinctly new, post-theological form of reason and the new political form it was bound up with—the state.

Allan does not, in fact, apprehend "how science and politics came together": Fleming's formulation suggests a much more open and complex set of interrelations, of the kind that I have sought to plow. Rather, Allan considers how the former caused the latter to evolve. This emphasis on change, together with causality, is consistent with conventional constructivism, where change has classically afforded it the wedge with which to establish itself in the discipline's mainstream and make the case for its advantage over more traditional approaches. However, it leads to holding as "givens" that which, in a critical perspective, requires being deconstructed, like the state. For Allan, the state is pre-given. That I sought to go all the way down and back in understanding the construction of this given, methodologically and substantially (or historically), meant that, on both counts, Allan, like most of conventional constructivism, could not afford me a starting point. Revitalizing the constitutive theorizing that lay in constructivism's foundations contra causal thought was one of the key purposes of my book.

Leviathan on a Leash: A Theory of State Responsibility.
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Sean Fleming's *Leviathan on a Leash* draws on Thomas Hobbes to develop a new theory of how to hold states accountable for their actions—of how to put the Leviathan on a leash. Returning to one of the first theorists of the state to think through the problem of state agency in its relation to responsibility makes sense. It enables Fleming to navigate through and past the pitfalls of the two established theories of state responsibility. On the one hand, "agential theories" in international political theory, Fleming shows, remain caught in the intractable problems of scaling up an individual understanding of agency and morality and the sticky question of whether intentions can be collective. To add my critique to Fleming's, but also to announce a reservation I have about his own problematization, these theories are unable to shake off the epistemological individualism that characterizes modes of theorizing that hail from analytical thought and its offshoot, normative political theory (see Charlotte Epstein, "Theorizing Agency in Hobbes's Wake: Rational Actor, the Self, or the Speaking Subject?" *International Organization*, 67 [2], 2013, and Dean Mathiowetz, *Appeals to Interest: Language, Contestation, and the Shaping of Political Agency*, 2011). On the other hand, "functional" approaches in international law separate out actions, performed by "agents," from responsibility proper, which is ascribed to "principles" (i.e., states). By the same token, they miss how they conjoin.

Instead, to build his own theory, Fleming carefully takes apart the components of the Hobbesian machinery of statehood—specifically, the theory of representation and the concept of personhood—and puts them back together around three questions that, he argues, a theory of state responsibility needs to be able to address: Who owns the actions (ownership), who is the actor (identity), and have they fulfilled their responsibilities (responsibility)? These questions afford the critical apparatus that he runs through the two established approaches (in chapter 1) before turning to Hobbes via his readers, specifically the "Skinner-Runciman debate." Here, I was a little surprised at what reads like a narrow (Cambridge-centric?) choice, and particularly by the omission of Reinhardt Koselleck (*Critique and Crisis*, [1959] 1988). Koselleck, as I show in *Birth of the State*, developed a detailed, powerful account of the Hobbesian allocation of responsibility and agency across states and subjects—Fleming's topic exactly.

On one level, then, Fleming shows how returning to Hobbes furnishes more sophisticated tools than are currently deployed in parsing a contemporary question. As a fellow admirer of Hobbes's understanding of the state, I was readily convinced. On another, mobilizing Hobbes for a normative project—"to refine and organize our intuitive ways of making normative judgements about acts of state" (p. 175)—strikes me as an odd choice. It collapses together the two levels that Hobbes was careful to hold separate: that of how the world is, which was his concern, and that of how it ought to be. Hobbes was very clear that appraising the workings of the state required dwelling

firmly with the former. Not only did ethical considerations, for Hobbes, muddy the understanding of what it takes to create and protect a communal space where we can live together respectful of our differences but also they did so by pushing exactly those buttons that derail this possibility. For they invariably lead to every party considering their ethics to be superior to those of every other party and wanting to impose them on others. They yield war.

Hobbes's writings afford a bridge between Fleming's *Leviathan on a Leash* and my *Birth of the State*. Two books that hold Hobbes as (one of, in my case) their primary referent offer the opportunity to plow the differences between modes of theorizing that hail from an analytical tradition and those that are inscribed in a continental one instead. Fleming reserves the term "analytical" for the agential theories that he critiques, yet I would suggest that the normative slant of his problematic has him tracking closer to this tradition than he recognizes, with regard to its future-oriented, problem-solving, and normative intents. The main difference lies in the ways textual readings are oriented: whether toward understanding how we have gotten to where we are today or instead toward resolving today's problems for a better future. Both approaches are concerned with our contemporary predicaments. Only continental approaches are genealogical; they look to the past to parse the present, whereas analytical ones are future oriented. They treat the problems of the present as largely self-contained and as resolvable or, at least, addressable on their own terms, so long as they are broken down into the right set of propositions that can then be logically recombined. Past texts and concepts are drawn on as tools that can be lifted out of their context and refitted to address ours. From a continental perspective, not only does this instrumentalization come at the expense of deepening our understanding of how the problems came about in the first place but it also has significant ethical costs, to which I shortly return.

Fleming's book is an intriguing hybrid. On the one hand, in proper continental fashion, he makes past texts speak adroitly to the present—to the state, which also concerns me in *Birth of the State*, and to the question of how it acts. Yet his ultimate purpose is to fix one of this political form's (genuinely) bothersome dimensions from the perspective of individual morality: the lack of accountability. This makes it a work of normative political theory. It is marked by the same remedial intent that characterizes this form of political thought (see my article, "Of Disciplinary Dialogues and Definitional Dead-Ends," *Political Theory,* 49 [5], 2021). This desire to problem-solve recalls the Coxian distinction between a "critical" and a "problem-solving" political science (see Robert Cox, "Social Forces, States, and World Orders: Beyond International Relations Theory," *Millennium*, 10 [2], 1981). With their attention directed to resolving policy or indeed ethical problems, problem-solving approaches fail to interrogate the bases on which something has come to be formulated as a problem and the power relations that are invested in seeing it (rather than something else) as a problem. They naturalize contingent constructs and the unequal structures of power underwriting them. The real import of theory, it seems to me, is instead to further the denaturalizing work of critique, to understand how taken-for-granted concepts, such as the state, wreak specific forms of exclusions.

Let me illustrate the differences in the two modes of theorizing by way of Fleming's texts. From where, I was left wondering, does Fleming draw his "three Fundamental Questions" (ownership, identity, fulfilment; p. 6)? These are central to his project: they underwrite both his reading of the existing approaches and the new theory he puts forward to overcome the latter's limitations. In fact, "identity" harks back to John Locke more than to Hobbes. But my deeper point is that these questions appear to be formulated ex nihilo or at least out of the present, by recourse to some form of common-sense requirements that Fleming assumes we can all agree on once we put our minds to the problem of state responsibility. This "pulling out of the present" is an analytical gesture. It is, literally, inconceivable in a continental perspective. There instead, concepts are first drawn out of texts, not placated onto them. Second, the common sense is treated as the place where constructs are naturalized and hence the object of critique, not that from which to put forward alternative remedial theories.

Setting aside our methodological differences, Fleming and I share an interest in the role of agency in Hobbes; to finish, I want to set in dialogue our ways of apprehending it. Fleming rightly underscores how Hobbes's personhood affords a fruitful counterpoint to its contemporary understanding as the container of intrinsic or essential properties. Instead, for Hobbes, it is constituted by "a process of social ascription" (p. 13). This is what marks Hobbes as one of the first constructivists, as I show, not the founder of a positivist political science that he is habitually taken to be. What he underplays, I suggest, is the properly constitutive, performative, *and* creative dimension of this process. Similarly, Fleming (rightly, again) places significant store on Hobbes's notion of "fiction" and the part that it plays in his theory of representation. Yet he also reduces "fictional" to meaning merely "authorized by third parties" (pp. 49–50). The work of fiction, in Hobbes, is far more potent and foundational. It is properly a work (or indeed acts) of creation, of bringing into existence that which did not exist before—a machine, a work of art, or indeed the modern state. "Fiction," for Hobbes, belonged, together with "artifice" to that range of signifiers by which he sought to capture a distinctly human, nondivine, nonnatural and non-individualist agency whose emergence in the seventeenth century he was witnessing and that created the state.

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Response to Charlotte Epstein's Review of *Leviathan on a Leash: A Theory of State Responsibility*

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— Sean Fleming

First, let me thank Charlotte Epstein for her thorough, fair, and insightful review of *Leviathan on a Leash.* Because I cannot do justice to the many interesting issues she raises, I focus on the one that I think has the broadest implications for political theory: the issue of theory's purpose.

Epstein sees a glimmer of continental thought in my book, in that "it makes past texts speak adroitly to the present." However, invoking Robert Cox's distinction between "problem-solving" and "critical" approaches, she places me decidedly on the problem-solving side—with all the blind spots and biases that this implies. Epstein is right to place *Leviathan on a Leash* in the tradition of analytic political theory (though, I would add, on the "realist" rather than the "idealist" branch). Yet, not all theory in the analytic tradition is problem-solving theory. Cox's binary omits and obscures many other modes of theorizing, including mine.

Leviathan on a Leash develops a kind of theory that stands somewhere between critical theory and problem-solving theory. I will call this "counterfoil" theory, because it has a lot in common with what Ivan Illich calls "counterfoil research" (*Tools for Conviviality,* [1973] 2009, pp. 77–99). Illich's mode of theorizing was, in part, "critical" in Cox's sense. Most famously, Illich sought to expose the power relations embedded in the institution of education and to denaturalize the idea of "school." But Illich also argued that concepts from the dominant culture could be "recovered," "inverted," and turned against established power structures. For instance, although he saw "the courts and the legal system" as "tools made for the service of an industrial state" (p. 92), he argued that some parts of the common law, such as the concept of due process, could be used to construct more egalitarian and decentralized modes of governance. Counterfoil theorizing is reconstructive as well as deconstructive.

Much as Illich used concepts from the common law in his critique of industrial society, *Leviathan on a Leash* uses the familiar concepts of authorization, representation, and personhood to develop a critique of state responsibility. Epstein is right that I take these concepts, along with many others, "out of the present." I develop a new theory of state responsibility precisely by recovering and reworking ideas from the dominant political culture.

From Epstein's perspective, counterfoil theory does not go far enough, because it stops short of "denaturalizing" the taken-for-granted concepts of modern politics. But counterfoil theory goes far beyond mere problem-*solving*, because it involves recasting and redefining problems. The aim of *Leviathan on a Leash* is not just to figure out how best to hold a state responsible, but also to rethink what it means to assign responsibility (rather than accountability, liability, or culpability) to a state (rather than a government, a nation, or a people) in the first place. The purpose of the theory I develop is more to define and illuminate ethical problems than to generate solutions or "fixes."

In the spirit of Illich, I consider critical theory and counterfoil theory—Epstein's approach and mine—to be complementary. While critical theory exposes the power relations embedded in our concepts, counterfoil theory challenges existing power structures by using their own concepts against them.