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TRAVELING LIGHT:
STATE THEORY AND SOCIOLEGAL RESEARCH

Joel Rogers

My assessment of the contribution of recent state theory—to sociolegal research in general and to my own work—is informed by my commitment to certain views on the requirements and tasks of social explanation. Let me begin by summarizing these views in five related claims.

First, *institutions matter,* though just how and which institutions matter in a particular case is not something that can be decided *a priori.* Glossing the first part of this claim: to say that "institutions matter" is to observe that how social life is organized is not only a consequence, but also as a cause, of the interests and resources of social actors. Via their effect on interests, resources, and the aggregation of both, institutions "matter" by affecting behavior; notice of their structure can thus contribute to social explanation. Glossing the second part of this claim, a Weberian qualification on privileging is recommended. In advance of looking at cases, we do not know the causal hierarchy of institutional effects. State institutions may or may not be more important than "semi-autonomous social fields," business associations, systems of relational contracting, the sexual division of labor in the household, or whatever else,

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in determining the interests and resources of actors, and thus the particular outcome that needs to be explained. Across cases, we may all have our favorite candidates for presumptively important institutions—a checklist of first places to look for effects—and can argue about the relative usefulness of different lists. But this is far from arguing about the *a priori* causal primacy of anything on them.

Second, *resources matter.* Since Olson (1965), we have known that more is needed for collective action than shared interests and convergent enthusiasms. Resources—preeminently time, information, capacities for sanction against free riders, or that which can acquire all these things, viz. the "universal equivalent" of money—are also required. Organization is an important phenomenon because it indicates successful pooling of resources among actors, sometimes with synergistic efforts that make them, as *collective* actors, more powerful than the sum of their parts. But organization should not be assumed, even or perhaps especially among those who find themselves in like material circumstances of exploitation or deprivation. This agnosticism has consequences for the theoretical status of those most famous of collective actors, viz. classes acting "for themselves." Briefly, I regard these as possible outcomes of collective action, and not as premises in argument.

Third, *everything is politics.* The social world is fabricated by men and women, and all aspects of this world are subject to revision. Within this "anti-necessitarian" (Unger 1987) view, I acknowledge that some social arrangements exhibit more stability than others. Instead of taking this as evidence of the relative "naturalness" or "immutability" of those arrangements, however, I take it as an invitation to explain how their stability is achieved. Typically, this can be done by indicating the ways in which those arrangements structure the definition and satisfaction of fundamental human interests (e.g., interests in material well-being, autonomy, and respect), and/or generate collective action problems among those oppressed or exploited by them. Neither procedure assumes anything "natural" about the institutional stability that results.

Fourth, *undesirable failures of coordination and cooperation are the rule, not the exception, in social life.* In addition to the resource inequalities already noted, these failures of coordination and cooperation owe to ubiquitous conditions of asymmetric information and conflicting interest among social actors, and the fact that much action is strategic, i.e. shaped by anticipation of the actions of others. Here again, institutional arrangements can help or hurt—e.g., by discouraging or encouraging free-riders, promoting more or less opportunity for collective deliberation, lengthening or shortening the "shadow of the future"—solution to these problems.

Fifth, *the task of constructive social organization is to overcome these failures through a more virtuous institutional organization of interests; the task of constructive social theory is to assist in this project.* By more "virtuous" arrangements I mean arrangements that are more just, efficient, and/or

encouraging of the exercise of fundamental human capacities for self-governance. The "assist" provided by social theory consists in such things as pointing out those failures, specifying plausible bases for virtuous cooperation in existing societies, exploring the likely consequences of different sorts of action and institutional ordering, and indicating feasible and attractive social orders alternative to the existent, and so on. As social theory assumes this task, however, much agnosticism about results and tolerance of approaches is called for. There are many imaginable forms of social organization preferable to those that now exist. Many of these may be equivalently "virtuous" in the sense just decribed. And there is, to say the least, great difficulty in assessing the likely future path of human agency, even if the choice should be made to pursue one of these alternate worlds. It follows that while social theory and social "science" can instruct on past experience and contribute some clarity in defining current problems, it should refrain from attempting to legislate *ab initio* the range of possible social invention. On the view here, such legislation is theoretically unwarranted, as well as politically dangerous.

Each of these points or prejudices—about the importance of institutions, the importance of resources, the political character of the social world, the pervasiveness of coordination problems, and the appropriate role of constructive social theory—depend on the others for empirical and normative support. Treating them together, as a matter of *method* the claims comprise an approach to social explanation that is anti-functionalist and individualist in its quest for microfoundations, while historical and context-embedded in its specification of the problems individual actors confront. As a matter of *empirical substance,* they represent a view of social life as a sequence of collective action problems, addressed by individuals under conditions of uncertainty, and within a historically given set of institutional constraints. These constraints are the product of previous choices, made under similarly constrained and uncertain circumstances, which are themselves the product of previous choices—and so on, as they say, "all the way down." Finally, as a matter of *normative conviction,* the claims reflect the view that we can do much better than we are doing now. Social life need not be as nasty, poor, brutish, and boring as it is, and we should do what we can to improve it.

What these views imply for my assessment of recent state theory is mixed. On the one hand, they imply no hostility to theory, and certainly no hostility to looking at states, along with other institutions, in explaining social outcomes. On the other hand, as might be gleaned from their modest character, they imply impatience with unguided abstraction, and some skepticism about the explanatory payoffs to generalization about states that goes beyond the mid-range.

Perhaps a good way to clarify this is to consider briefly, from the standpoint of such views, two recent debates in the area of "state theory."

Consider first the (now, thankfully, fading) debate over "instrumental" versus "structural" theories of the state in capitalist societies. Here the dispositions just noted lead me to take neither of the official sides. Global instrumental accounts, where the state is seen to be the unqualified instrument of the dominant class, make strong assumptions about the unity of capitalists. As noted above, in reference to classes, these assumptions strike me, as a *general* matter, to be unwarranted. At the same time, however, I find structuralist accounts of the capitalist state severely wanting. These theories are not usually theories of the state at all, but state-centered functionalist accounts of capitalist reproduction. As noted, I am generally suspicious of functionalist arguments, and opposed to privileging any institution in this way.

Having rejected both of the semiofficial positions, what is my own? Perhaps unhelpfully, I take the state to be—at different times or along different dimensions—both a dependent and independent variable. State institutions are both the product of previous struggles, and, at given moment, effectively "fixed" for actors as part of their institutional environment. I call this view "unhelpful" in that it makes life hard for state theory. It suggests severe tradeoffs between the comprehensiveness of theoretical accounts and their ability to predict outcomes in particular cases. But this, I think, is simply unavoidable, given the nature of the beast under view.

If the above views lead to skepticism about the explanatory payoffs in general state theory, there is more certainty about what is looked for in particular explanations of state action. Here, I am resolutely instrumental. That is, I take it to be a requirement of any explanation, including explanations of the state, that the explanation have microfoundations—real actors, operating under constraints, with interests, taking action with identifiable effects. Put otherwise, while state structures often play a very important role in explaining outcomes, their contribution is best understood as a constraint on the feasible set of human action, and their stability as such a constraint is determined by such action. Structures do not simply reproduce themselves without the assistance of human agency.

As a second example, consider the attack recently launched by "state-centered" theorists (Skocpol 1985) against those favoring "society-centered" strategies of explanation. This attack is unworthy of the attention it has received. At the level of "low theory" arguments over the importance/unimportance or independent/dependent status of the state in the explanation of particular outcomes, the reasons for thinking this have just been stated. It is impossible to say, in advance and as a general matter, what the status of the state will be. And at the level of "high theory" arguments over society versus state "centeredness" generally, the state-centered argument cannot even get started until the logic of state action is distinguished from the logic of social action. This is something that the current generation of state-centered theorists have failed to do. But absent such distinguishing actions we are back to

particular cases, concerning not so much general "centeredness" as particular causal contributions, and the above remarks about the *a priori* indeterminacy of the state's status again apply.

What these and other state theory debates (consider the particularly unhelpful "state derivation" theories of a few years back) tell us, I think, are two things. First, they remind us that we lack anything like a systematic theory of political institutions. Whether owing to the limits of human intelligence, or to the intrinsic nature of these institutions (as constantly contested objects of negotiation, bargaining, and struggle), we are still at a point where very little can be said, *as a general matter,* about how they work (and thus how they might be changed). Second, and relatedly, these debates remind us that theoretical discussions not linked to some reasonably clear analytics, and/or a reasonably clear sense of their own limitations, can waste a lot of time.

In my own work, I have tried to incorporate these lessons. Looking to construct what theory I can, I have tended to steer clear of *Kategorienlehre,* and back to what solid ground in the analysis of political institutions I've been able to find. The views enumerated at the outset are what map that ground, and my work reflects them throughout.

Here are some examples:

In *The Hidden Election* (1981), *Right Turn* (1986), and several articles, Tom Ferguson and I have tried to bring the basic insights of a resource-based view of politics to bear in explaining party systems, with a focus on the U.S. Essentially, we take political parties not to be responding to a market of uninformed, harried, and generally not materially very-well-off individual voters, but to the cue of more resourceful "investors" who have good and clear reasons for wishing to control the state, and the resources to compete to do so. In the American case, these "investors" are primarily wealthy individuals and business firms, although clearly the theory allows for (and the American case has occasionally seen evidence for) the possibility that individual voters could pool resources through organization and emerge as "investors" in their own right. This approach gets purchase on several political phenomena that are virtually impossible to explain on conventional "voter-driven" theories of electoral politics. Among these are non-vote-maximizing strategies of politicians (e.g., decisions to throw the economy into a recession just before an election), and discrepancies between public opinion and policy change, especially during periods of policy realignment (e.g., how you can have, as you had during the Reagan years, a policy realignment toward more conservative policies, even as the electorate was drifting in a more liberal direction).

In *On Democracy* (1983), Josh Cohen and I also tried to develop the above points. We offered a general account of interest formation in capitalist democracies, and the outline of alternative social order, organized around the ideal of democracy. In both the critical and positive discussion, we are attentive to the importance of resources in pursuing those interests. Our argument for

why workers consent to capitalist democracy, for example, tracks these concerns exactly. Consent is explained, we argued, by the interaction of the "demand" and "resource" constraints on worker political action. The first refers to the ways in which the structure of capitalist democracy (preeminently, private control of investment, and the consequent dependence of economic activity on a reasonable assurance of profitability for investment) tends to reduce worker political interests to non-transformative interests in short-term material gain, which are exactly the sorts of interests that capitalist democracy is capable of satisfying. The second refers to the ways in which capitalist democracy constrains workers even in this pursuit, while rendering more radical challenges implausible.

My more recent work on postwar U.S. labor policy (Rogers 1990) shows a similar attention to the ways in which particular institutional rules, operating against the backdrop of a variety of resource and other constraints, shape interests and strategic action. In this analysis, the discussion of law tends to emphasize the instrumental effect of legal rules over their symbolic import, the structural features of labor regulation over its "values and assumptions" or "ideology," and the rationality of workers over their "false consciousness." And it assesses the effect of the legal regime in the context of other institutional constraints on worker action, including the above constraints of capitalist democracy, the more particular historical limitations of the "exceptional" U.S. case, and the still more particular constraints of the "accord" between employers and unions in the postwar setting. Within these constraints, I argue, one effect of private labor law has been to drive unions toward highly particularistic strategies in their dealings with employers, even though the pursuit of these strategies hurts workers as a class. In effect, the argument is that labor law enlists unions in a succession of prisoner dilemmas; it is locally *rational* action that produces the socially bad result.

In all this work, then, the points entered at the outset about social explanation are used, displayed, or relied upon.

But where, again, is state theory in all this? Everywhere and nowhere. Everywhere in the sense that the subject of much of this work is the state, and where the state is not directly considered, its effects on what is considered are. I deal throughout with a fully politicized economy. Capitalist democracy is not just capitalism, but democratic capitalism. Institutions matter, state institutions among them. Nowhere, however, in the sense that I have found general "state theory" to be of little help in explaining the things I wish to explain. State theory, again, and for the last time, has limits. I think that being "theoretically informed" in this area means appreciating those limits, being very skeptical of excess theoretical baggage, and, as a consequence, being willing and even anxious to travel light.

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