

ABSTRACT

Title of Dissertation: WORK UNDER DEMOCRACY: LABOR, GENDER
AND ARENDTIAN CITIZENSHIP

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In the interest of promoting a co-constitutive theory of democratic citizenship, this dissertation explores three questions. I ask how work is defined and how this definition creates a hierarchy of types of work, which then leads to my second question, which is how definitions of work or what is not work are carried over into the public space of politics and citizenship, such that even legal citizens may be marginalized by the type of work that they do. I first critique democratic theory, particularly as centered on the idea of the public sphere, for failing to think about work, especially the labor that is required to build these political spaces. I then show how the contemporary economy challenges the ability of citizens to engage in political work because it produces conditions of precarious labor, ubiquitous work, the depoliticization of work itself, and incompatibility of wage labor and family life. I use two historical case studies to explore how groups have claimed collective rights housed in the substantive needs of communities when asserting the validity of their work for citizenship. I look to the Articles of Confederation and Daniel Shays for an example focused on waged labor, and then the temperance and Anti-

temperance movements for a consideration of gendered reproductive labor. I then address my third question, which is whether it is possible to promote the political work of co-constituting a shared public world without also denigrating the labor, particularly care labor, that is supportive of this project. I claim it is possible, with the aid of Hannah Arendt's understanding of the complex interrelations between action, work and labor and locating of citizenship in the work of world building. I argue for the support of this conception of work and agnostic institutionalism, despite the challenges of the contemporary economy, by advocating for a coalition-based democratic politics aimed at supporting the compatibility of work and family for people who do all sorts of work.

WORK UNDER DEMOCRACY: LABOR, GENDER AND ARENDTIAN
CITIZENSHIP

by

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CHAPTER ONE: THE PROBLEM OF WORK UNDER DEMOCRACY

1.1 Introduction to the Problem of Work under Democracy

Democracy, from its minimalist to most direct forms, relies on its citizens, because democratic legitimation rests in the notion of popular sovereignty. To be democratic may mean many things, but all of them include normative ideas of citizenship, whether we are discussing a theoretical or actually existing democratic system. The people, if they are the roots of democracy, must do something political to make this system function. Theorists advocate for better democracy, whether better means stability, justice, equality or freedom, contest what this “something” should be. Are the tasks of citizenship to choose between different options at the ballot box? To volunteer or join a local group? To govern directly, at least one in a while? To fight for dominance in the public space? While arguments about citizenship as desirable or virtuous action of the citizen continue, another set of thinkers ask, and activists struggle, to see and change how the legal and social barriers to gaining formal access or social standing as a good citizen occur.

These conversations need to be merged, which would help show that there is a term missing from these discussions: work. It is missing in part because it is a slippery word, used in so many contexts that it elides scholarly definition. We all know what work is, because we do it everyday, although some of us may refer to our writing or art as our “work,” while others think of their careers as work; we might also do things like “housework” or the type of work we require in our prisons. Whether our daily activities are understood to be “work” or, better yet, “good work” that earns us a place in the political

system is incredibly important for our ability to act as democratic citizens- and this determination is not up to us, but formed in a socio-historical context bound up in legacies of privilege. Work is associated with politics as a market of political viability, but we also speak about political work from time to time. This confusion of terms needs exploration. Yet “work” is not a key term in democratic theory.

To foreground the importance of work for politics, including how we define it, we come up against an old puzzle of Aristotle’s. In *The Politics*, he expresses the fundamental puzzle of good citizenship, although he may not understand it as a puzzle. It turns out that a virtuous polity, and good citizenship, requires the labor of slaves. More than that, it requires that we sort out those who are “natural slaves” and therefore incapable of the higher acts of deliberation and friendship on which the city relies, from those who are citizens. The labor that supports the city is incompatible with the political virtue of governing oneself. Aristotle is not concerned with the democratic implications of this division of labor, even though his ideal regime is premised on “ruling and being ruled in turn,” a nice formulation of shared public life.

The democratic implications *are* important for political theorists, and democrats who follow him have rejected the category of natural slave and advanced a more inclusive politics, where all can be good citizens. In doing so, they have often allowed the question of whose labor is supporting and building the public space to go unanswered, because the actual existing answer is offensive to democratic sensibilities. If we are a society that rejects the idea that people are natural slaves, then we cannot explain how there

are those who will spend their lives laboring for very little or not material rewards, much less political standing. The formal expansion of democratic citizenship without a consideration of division of labor in society, both in itself and as it relates to political activity, is problematic.

If we reject Aristotle's argument about the natural slave and claim that all labor is equally valid, we are still mired in a quandary. Perhaps this economic leveling, produced either through social or economic policy, solves the problem of exploitative labor. However, it may do so at the cost of hollowing out the concept of work such that it has no political valence, and sucking the possibility for shared public projects and solidarity away from work. On this side of the quandary, we develop economic equality (or, worse, extreme almost equality where most are equally wretched and a select few are wealthy) without nurturing our civic capacity, such that we lack anything or place that could properly be called politics, or the common good.

Holding on to the importance of work without denigrating labor is thus the theoretical and practical task I have set for myself. To aid me in what is no doubt in part a redefinition of this term, I am adapting Hannah Arendt's distinctions between labor and work, although I think she has mistakenly categorized some activities in her attempt to revitalize Aristotle's paradox. Labor is nutritive and metabolic life that we share with animals, while work is that which produces a durable world outside ourselves in which humans are embedded. Ultimately, I will argue for supporting excellence in political work we can choose to do and equality in labor that we have to do.

1.2 Background of the Problem

Democracy is the only game in town. Political theory has been highly focused on defining, defending and exploring its contours for the past thirty years, and in this endeavor developed related arguments about who citizens are and what they do. In particular, debates about the proper form, location and function of public debate in a democracy dominate contemporary political theory, which often coningle with the problem of democratic justification and legitimacy. It is here that questions about democratic equality overlap with concerns about justice, redistributive or otherwise. While democracy and liberalism are theoretically separate, they are often joined in this work given the dominance of liberal concepts of negative liberty and rights-centered democratic life. Yet the prominence of democracy as “a transhistorical and universal value”¹ is not limited to liberal theorists; critics of liberalism from many sides tend to advance a democratic politics, even if this politics is construed as an alterative to liberal democracy. It is possible that the lack of a strong competitor to democracy reflects ideological hegemony, or that the concept has been stretched so much that very different systems can now be described with the same word. It is also possible that democracy remains, despite its justificatory role, tantalizingly out of reach in theory and practice.

1. Sheldon S. Wolin, *Politics and Vision: Continuity and Innovation in Western Political Thought*, Expanded (Princeton University Press, 2006), 585. He argues that the dominance of democracy as a theory does not relate to the actual rule of the poor that Aristotle associated with it; indeed, it has instead produced what he calls “centrifugal” reactions in the form of identity politics and theory, which he rightly questions as an effective opposition to the “centripetal” powers of governance by large corporations.

One way to differentiate between democratic theories is through the role of the citizenry in this democratic system: thus we commonly contrast deliberative democrats with participatory democrats and so forth. While these distinctions are useful, we should also ask who and where citizens *are* and *do*, when they are not in a political space both legally and in light of the skills they are expected to hold and places in which they are supposed to act. This involves an exploration of normative democratic citizenship and an explanation of how the real-life population can engage in this civic action.

The most important piece missing from the discussion of normative democratic citizenship is the place of “work.” This term will take some defining, but for now let it stand for the productive activities of humans, organized via roles that may either be formalized as professions or jobs in public, or undertaken as part of associations, like families, of private life. The work individuals do is the key to political membership in the United States and also a means by which those who do the wrong work, or have the sorts of bodies that qualify them for the wrong work, can be excluded. As legal barriers to citizenship fall, so that the poor, chattel slaves and their descendants, women, some immigrants and those young people subject to mandatory military service gain suffrage and other legal protections, we might assume that work and its political role would have also democratized. However, this has not been the case, explaining in part why inequality among the formally equal persists. Normative associations of “good work” with “good citizenship” retain and sometimes enhance hierarchies, particularly those tied to race, gender, age and class. While political theory, particularly through encounters with femi-

nist and queer theory, seeks to take difference more seriously, it may still rely on ideas about good citizenship that assume a certain type of good worker, due to historical associations and unquestioned assumptions. And, even more complexly, political theory has a deep tradition of itself differentiating between types of work, valuing the public effort of citizenship, the political, above other sorts of labor and mental labor over physical.

Work is a contested concept in even the sociology of work, which struggles itself to escape suggesting that work is anything productive of anything.² On one hand, sociologists of work tend to study paid employment and surrounding economic structures, even as they also acknowledge that the definition of work is itself formed through contestation, rather than reflecting objective definitions.³ One explanation for this is the historical development of the concept of work as a discrete sphere in the 18th century, conceptually severed from politics or family.⁴ Even the traditional opposition of work and leisure in

2. “Since social reality has to be worked at—that is, has to be brought off by knowledgeable beings who sustain meaningful exchanges with each other— it could be asserted that every human action is work.” Keith Grint, *The Sociology of Work: Introduction* (Polity, 2005), 14.

3. “From the late 1970’s there has been a much closer interest in how ‘work’, ‘labour’ and ‘employment’ are in fact culturally defined,” particularly when we seek to understanding work from the perspective of workers, or “in studies of proto-industrialization and the links between waged and unwaged work, and between work, family market and community” Patrick Joyce, *The Historical Meanings of Work* (CUP Archive, 1989), 11.

4. Although he defines work as when “we extract from nature the means of our existence,” he argues that work itself develops as a separate sphere in the 18th century, as the economy assumed a central role in Western Society. Maurice Godelier, “Work and Its Representations: A Research Proposal,” *History Workshop Journal* 10, no. 1 (September 21, 1980): 164–174, doi:10.1093/hwj/10.1.164, 167.

unstable, given work, such as farming, art or sports, that blend the two.⁵ In any case, the dominant understanding in sociology of work is that work cannot be defined through its objective components, but instead is inscribed in a social and political process which itself has ramifications for social structures and behavior. In a sense, this dissertation seeks to trace this act of definition as it occurs in political theory and American history.

This tracing is important because work, in terms of employment (or its lack) is so central to the contemporary American experience of politics. Work is not only the activity in which most people spend the majority of their time awake, but also the primary locus of social standing and belonging.⁶ By working, we not only supply others and ourselves with material and social goods, but also develop certain skills and habits while others atrophy.⁷ We pursue a certain view of our identity in relation to the others and to the world, as well as a view of the world itself through our workday.⁸ And, perhaps even

5. These ways of life “offer no clear separation between non-work and work” claims Loudon as quoted in Sandra Wallman and Association of Social Anthropologists of the Commonwealth, “Social anthropology of Work” (Academic Press, 1979), 129.

6. Put otherwise, “what people produce and consume, and the social relations engendered by that production, remain at the present time primary constituent elements in defining the social and cultural relations of postindustrial societies as we currently observe them” Catherine Casey, *Work, self, and society: after industrialism* (London; New York: Routledge, 1995), 25.

7. Indeed, in the workplace “educative and work processes are tightly interwoven and difficult to disentangle, as shown in a study of work-based training reform. Sylvia Hart-Landsberg, *Learning the Ropes: The Social Construction of Work-based Learning* (National Center for Research in Vocational Education, Graduate School of Education, University of California at Berkeley, 1992), 15.

8. This holds true even if “what it means to be a worker is not as stable as it once was,” as argued by post-industrial theorists and those who question the notion of a stable identity that travels from context to context, still may see work as central to this contingent process. Paul du Gay, *Consumption and Identity at Work* (SAGE, 1995), 3.

more importantly, we come to understand how our work is (or is not) valued politically and socially; our work dictates to a great extent how easily we can get into the public sphere that is the starting point for many democratic theorists.

That individuals are situated within historical social and political relations that promote or exclude certain types of work from public space, either explicitly or through excluding the sorts of skills and voices that come from this work, is one of the key claims of this dissertation. Closely related is my claim that, with a more attentive look at how people struggle to overcome these exclusions, we are able to build a more robust account of democratic public citizenship that refuses to privilege certain types of workers over others, and instead places the creative power of citizen workers at the heart of democratic action. To approach these questions, it is necessary to explore the relationship between labor as an economic or social practice and the work of citizenship, as it has been experienced historically and understood theoretically. The first question is about the political relationship of work to labor, or, put another way, of hierarchy of work. The second asks how a work/labor hierarchy relates to political citizenship, in both a status and normative sense. This examination, as we will see, will also introduce a third question: can political work be valued without devaluing work that is not political, particularly physical or care labor that has been understood as its antithesis? If, as I think, it is possible to promote a democratic citizenship of political work without denigrating other labor, then it will also be necessary to posit some steps that would help support such a politics.

1.3 Literature Review: Democratic Theory, Marxism, Feminism and Public Work

The current literature in democratic theory lack explicitly consideration of work, labor, professions or the like in relation to democratic normative citizenship. These aspects of human live are considered properly the realm of sociology, or perhaps anthropology, given their historical development as disciplines. This is problematic if, as I will claim, core concepts in political theory such as citizenship and association are constructed out of unquestioned assumptions about work. The intellectual history of good citizenship bears tension over the place of work and leisure in relation to politics and desert, with an unacknowledged alliance with Aristotle on the incompatibility of paid, manual or house work with the duties and skills of citizenship.⁹ In the scope of republican political theory, either emerging from Roman roots¹⁰ or modern revival,¹¹ the role of politics is elevated, but other productive activities are not. These twin tendencies, to craft citizen-

9. Indeed, Aristotle tells us amid a discussion of the virtues of citizenship as “the capacity of rule and be ruled” Aristotle. *The Politics*. Univ of Chicago Pr (Tx), 1984, 91 that there are “several forms of slave; for the sorts of work are several” (Ibid., 91). The work of craftsmen, slaves or women is done for others and thus means they are ruled as slaves, while citizens are ruled as a form of education towards ruling. Thus he can famously conclude that, although necessary to the city, craftspeople are “incomplete citizens” (Ibid., 93) at best and slaves by nature— that is “if their work is the use of the body, and if this is the best that can come by them” (ibid 41)—at worst.

10. Marcus Tullius Cicero, *Selected Works*, trans. Michael Grant (Penguin Classics, 1960).

11. John Greville Agard Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton University Press, 2009).

ship around the skills of some types of work, even if that work is scarce, and ignore the role of unpaid political work as potentially political is reflected in the prominent forms of democratic theory.

Citizenship theory is itself characterized by the overlapping, but not identical, use of the term to mean both “citizenship-as-legal-status” and “citizenship-as-desirable activity.”¹² Explorations of the former look to historical and contemporary expansions and contractions of citizenship, tracing the way that legal categories, and constitutional changes, have regulated who is and is not a full member of a political body.¹³ T.H. Marshall’s classic, “Citizenship and Social Class,” illuminates that both types of citizenship are interconnected, writing that “[t]here is no universal that determines what those rights and duties shall be, but societies in which citizenship is a developing institution create an image of an ideal citizenship against which achievement can be measured and towards which aspiration can be directed.”¹⁴ In Marshall’s broader claim that political rights are

12. Will Kymlicka, *Contemporary Political Philosophy: An Introduction*. (2nd ed. Oxford University Press, USA, 2001), 353.

13. For example, see Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (Hill and Wang, 1999) and Evelyn Nakano Glenn, *Unequal Freedom: How Race and Gender Shaped American Citizenship and Labor* (Harvard University Press, 2002) for an exploration at the interrelated role of class, race and gender in early colonial and antebellum citizenship. John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State*. 1st ed. Cambridge University Press, 1999, undertakes a similar exploration through the development of state practices of textual control and Linda Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton University Press, 2008) is a central study in the genre. Jacqueline Stevens, *States Without Nations: Citizenship for Mortals* (Columbia University Press, 2011) connects national boundaries with the historical exploration of gender and sexuality.

14. Thomas Humphrey Marshall and Tom Bottomore, *Citizenship and Social Class* (Pluto Press, 1987).

interrelated with social and economic rights emerges a defense of the welfare state and an echo of Roosevelt's Four Freedoms; however, it has not dominated the American experience, or theoretical exploration of citizenship.¹⁵ While the quest for citizenship as legal status has occupied social movements and prompted massive expansions of citizenship rights, even if these expansions are more characterized by fits and starts than steady growth, too much focus on formal membership can cover over the importance of normative democratic citizenship- citizenship as desirable activity. This is contained already in the ambiguity of the concept of "full membership" in a political community; is one a full member if one has legal rights, but social norms or material circumstances pervert their use? The violence of Jim Crow restrictions on legal black citizens is only a particularly telling suggestion that these two types of citizenship are related.

I have formulated this as the problem of the relationship between work as an economic or social practice and the work of citizenship, which is explored through the experiences of citizens under the Articles of Confederation whose status citizenship was at issue because of their labor. Their experiences show work/labor hierarchies relates to political citizenship, both as sources of exclusion and as the motivation for struggle. To show that this struggle outlasted the Articles, I explore how the Aristotelian amalgama-

15. See N. Fraser and L. Gordon, "Contract Versus Charity," *Socialist Review* 22, no. 3 (1992): 45–67 for a powerful argument that the United States has limited practices of social citizenship because gendered notions of contract have produced "considerable tension between the mythology of civil citizenship and T.H. Marshall's notion of social citizenship", reinforced by the masculine dominated public space.

tion of nobility, leisure and citizenship, although resilient, did not survive whole piece industrialization or the broadening of the franchise.¹⁶ Instead, it has been modified to fit the needs of a pluralistic, democratic society by progressive theorists and union activists at the turn of the 20th century, who tried to solve the “problem” of the incompatibility of the mass political subject with political excellence through education that verged on social control. Temperance activists, who in some ways took this tendency to social control to extremes and attacked the social practices of the lower classes and immigrants, also sought to insert the question of whether women’s work counted for citizenship into the debate. They serve as an illustrated case study here, which bears directly on my first question, that of the political relationship of work to labor, or, put another way. These historical moments help illuminate the complex problem that work poses for theories of good citizenship.

Rather than exploring interrelationships between work and citizenship, the primary way in which work appears in political theory has been as a potential venue for democratization. While workplace democracy has relatively radical roots in early socialism, its late 20th century proponents tend to make less revolutionary proposals.¹⁷ Part of the in-

16. There is perhaps an Aristotelian legacy in the prominence of political discourse tied to ideas of “trickle-down” economics, or the deference (and bailouts) available to prominent financial firms; however, the view that the wealthy are job-creators is nobility filtered through a producerist logic; no longer is good citizenship about developing the virtues of a citizen, but about production and consumption.

17. Proudhon’s early formulations of his mutualistic industrial democracy argues that management “must be chosen by the laborers from the laborers themselves” because “all accumulated capital being so-

terest in workplace democracy stems from engagement and some frustration with calls for increased participation; the hierarchical nature of the workplace was a possible casual explanation for low rates of participation, and thus also a fulcrum from change.¹⁸ In Robert Dahl's version, Economic Democracy emerges from a stronger claim: "If democracy is justified in governing the state, then it must *also* be justified in governing economic enterprises."¹⁹ Disagreements on whether he can fully support this claim abound, but researchers quietly continue to explore this line of arguments.²⁰ However, attempts to instantiate these practices, the famed example of Mondragon notwithstanding, have largely been captured by movements within capitalist management culture, such that calls for workers' ownership of firms and capital are transformed into workers' responsibility for

cial property, no one can be its exclusive provider." 1. Pierre-Joseph Proudhon, *What Is Property?*, New issue of 1898 ed (William Reeves Bookseller Ltd, 1969), 130, 137.

18. Reasoning that "the understandings of the greater part of men are necessarily formed by their ordinary employments," and that division of labor renders these employments dull and anti-political, we must move towards a form of economic life that "is not that which can exist between a capitalist as chief, and workpeople without a voice in the management, but the association of the labourers themselves on terms of equality, collectively owning the capital with which they carry on their operations, and working under managers elected and removable by themselves." Carole Pateman, *Participation and Democratic Theory* (Cambridge University Press, 1970), 51, 34.

19. Robert Alan Dahl, *A Preface to Economic Democracy* (University of California Press, 1986), 111.

20. See the recent exchange on this very topic. Robert Mayer, "Robert Dahl and the Right to Workplace Democracy," *The Review of Politics* 63, no. 02 (2001): 221–247, doi:10.1017/S0034670500031156. And Robert Dahl, "A Right to Workplace Democracy? Response to Robert Mayer," *The Review of Politics* 63, no. 2 (April 1, 2001): 249–253.

outcomes and products.²¹ More recent work on this topic in political theory tends to have less revolutionary goals, perhaps reflecting a general acceptance of the dominance of capitalism.²²

Other exceptions to political theory's shunning of work fall into three categories: Marxist thought, feminist theory and public work. To a certain extent, my project builds on the insights of thinkers in these categories, while also seeking to advance beyond some of the limitations each creates on its own. In particular, I am concerned about the lack of a concept of public work or the common good in Marx, an overly narrow focus on the struggles of upper-class women in feminist thought, and a refusal to change the parameters in which we work, including those related to gender and the family, in theories of public work. As a relatively friendly critic, I will draw on these three bodies of thought in formulating my argument that we can promote a citizenship of democratic work without denigrating other labor

First, Marxist thought is an obvious choice when looking for a political theory of work. Marx contributes a rich set of theoretical concepts related to work; alienation, sur-

21. This is part of a larger story about post-fordist development of the workplace, where many potentially emancipatory ideas were coopted as new practices of disciplinary control and surveillance accompanied the rise of the service and knowledge economy, as I discuss in chapter two.

22. It may be that "what happens in the workplace is extraordinarily important in a diverse democratic society, and should be explored and cultivated," but suggesting that culturally sensitive workplaces can foster trust and support civil political discourse is a far cry from redistributing the means of production. Cynthia Estlund Professor of Law Columbia University, *Working Together : How Workplace Bonds Strengthen a Diverse Democracy: How Workplace Bonds Strengthen a Diverse Democracy* (Oxford University Press, 2003), 4.

plus labor value, class as an analytical tool and the conception of humans as fundamentally materially productive creatures, at the level of what he calls “species-being”. Indeed, it is perhaps an affront to write a dissertation on work and not proceed first through Marx, who seeks to uncover the meaning, rather than just the workings, of political economy. I have done so not because I think that Marxist thought is exhausted, but because the importance of work for normative democratic citizenship holds even if Marx’ understanding of the scientific progression of history are incorrect. Second, while Marx is clearly critical of the four-fold alienation experienced by wage-workers, expressed also in the exploitative cycle of surplus value, he does not recognize the importance of non-market labor for producing a capitalist system.²³ Third, it is the connection between the political and the economic, as manifest in the individual citizen, that interests me. It is on this point that I think Marx is most vulnerable to critique, even if we avoid an overly simplified base/superstructure reading of his ideas.²⁴ The force of this critique is aimed at

23. This is the critique of the Italian feminist Marxists, discussed at some length in chapter four. They argue that the “reproductive labor” of the household produces the worker himself, this producing labor power and surplus value and upholding the entire system. Mariarosa Dalla Costa and Selma James, *The Power of Women & the Subversion of Community*, 3rd ed. (Wages for Housework, 1975).

24. Considering the role of the proletariat helps clarify this point. As the proletariat produces goods, he or she produces also a world of things, people and beings that are foreign, or estranged; this is Marx’s twist on Hegel’s understanding of the importance of work and creation of world to establish identity. This alienation is one reason why politicizing the masses is so difficult, even without the suggestion of false consciousness. Work, under capitalism, thus produces a revolutionary subject and yet produces also a situation of alienation where he or she is unlike to revolt. That he tells us ““What the Bourgeoisie therefore produces, above all, are its own GRAVE DIGGERS” to remind us that it is the (failure of the) capitalist system which will precipitate this change, not revolution from below. Karl Marx and Friedrich Engels, *Manifesto of the Communist Party* (C. H. Kerr & Company, 1906) 32. Yet we know that political action, revolutionary or not, does not vary neatly in relation to class. What if it does relate intimately to work, but

the division of labor, which some commentators see as abolished under communism while others read its shift as a call for universal meaningful work.²⁵ Both approaches deal with the problematic use of work and class to order hierarchies, but leave little room for valuing political work or what we might call a public space. To focus on this aspect of work, I leave aside Marx.

There are post-Marxist theorists who look more directly at work than liberal theorists or more traditional Marxists. One approach is the rejection of work as it is currently practiced, either through a refusal to work, the claim of the right to be lazy or, more radically, a politics of anti-work that rejects the intimate connection between production and species being laid out by Marx.²⁶ Work is for these thinkers an essential object of study

in its *political valence* rather than its production of material conditions, meaning that revolution itself has been coopted. We might then see that shifts in the structure of power mean that, today, “revolutionary change is the achievement of corporate power.” Wolin, *Politics and Vision*, 581.

25. For an exploration of divisions within contemporary Marxism, see Renzo Llorente, “Analytical Marxism and the Division of Labor,” *Science & Society* 70, no. 2 (April 2006): 232–251.

26. Bernardi epitomizes autonomist Marxism; he argues that the “cognitariat” is emblematic of work in the 21st century, and in response to technological changes and workplace demands, “tend to consider labor as the most essential part in their lives, the most specific and personalized” and indeed tend to perform tasks in their leisure time in the form of games. Franco “Bifo” Berardi, *The Soul at Work: From Alienation to Autonomy* (*Semiotex*, trans. Francesca Cadel and Giuseppina Mecchia (Semiotext(e), 2009), 76. Where the autonomists call for the collective seizing of happiness, and the means of production, the “anti-work” or “post-work” contingent, drawing at least inspiration from 1. Paul Lafargue, *The Right to Be Lazy*, trans. Len Bracken (Fifth Season Pr, 1999), argue for the turn away from values such as work ethic, production and productivity, with strong relevance to the labor politics of the 1970’s. See Kathi Weeks, *The Problem with Work: Feminism, Marxism, Antiwork Politics, and Postwork Imaginaries* (Duke University Press Books, 2011), for a recent renovation of this argument, suggesting a that even Marxism must be left behind if producerist logic is to be also.

and they ask questions about what current working conditions mean in terms of equality and justice. What they do not always ask is what they mean for democracy or citizenship. In the main, the goal of neo-Marxists is to “refuse both the institution of waged work and the model of the privatized family as the central organizing structures of production and reproduction.”²⁷ While students of democratic work need to be cognizant of the relationship between capitalism, family structure and work, they should think about how citizens could change waged work and the privatized family; a politics of anti-work is not politically engaged and without the teeth to prevent exploitative corporate systems with exploitative public or private ones.

In terms of the relationship of work to gender, Marxist Feminism is another logical place to look for allies, even if these two terms have had an “unhappy marriage.”²⁸ While the roots of Marxist feminism come from Engels own work on the family,²⁹ many feminists have been critical of the role, or non-role, that gender has played in Marxism.³⁰ Thus much of Marxist Feminism involves exploring the work of Marx and Marxists and

27. Weeks, *The Problem with Work*, 111.

28. Heidi I. Hartmann, “The Unhappy Marriage of Marxism and Feminism: Towards a More Progressive Union,” *Capital & Class* 3, no. 2 (June 1, 1979): 1–33

29. Friedrich Engels, *The Origin of the Family, Private Property and the State* (C. H. Kerr, 1902).

30. Most notably, Gayle Rubin, “The Traffic in Women: Notes on the 'Political Economy' of Sex,” in Rayna R. Reiter, *Toward An Anthropology of Women* (Monthly Review Press, 1975), 157-210.

seeking to put it in dialogue with feminist concerns,³¹ or to determine whether these theories are even compatible.³² While it may bear tangential relation to my theme, I am not interested in reopening this debate. However, the relationship between Marxism and feminism does point to the importance of asking questions about work when we ask about political belonging, and of approaching social, economic and political oppression as linked.

Feminist thought in general explores questions of work, exclusion and the relationship between these “private” spaces and political equality. While the concept of “waves” of feminism has rightly earned criticism, as with any academic discipline there are paradigmatic shifts that illuminate the sort of approaches and questions popular at a given time.³³ However, as in the history of feminist thought and activism, and even more

31. For example, the 1970’s era movement towards wages for housework was based in an understanding of the role of (women’s) reproductive labor in the home in shoring up the exploitation of the (male) worker’s surplus value outside of it.

32. On one side are thinkers who combine Marxism and feminism to develop an argument about “capitalist patriarchy”; see, for example, Hartmann, “Unhappy Marriage,” and *Women, Work, and Poverty: Women Centered Research for Policy Change* (Routledge, 2012) or Zillah Eisenstein, *Against Empire: Feminisms, Racism and “The”* (Zed Books, 2004). On the other, many Marxist feminists argue that it is still relationship to production that is the key to exploitation, even if capitalism exploits women (and other’s) subordinate status; see, Michèle Barrett, *Women’s Oppression Today: The Marxist/Feminist Encounter* (Verso, 1988), Molyneux, Maxine. “Beyond the domestic labour debate,” *New Left Review* 116, no. 3 (1979): 27 and, Patricia Connolly “On Marxism and feminism,” *Studies in Political Economy* 12 (1983).

33. While there is little agreement as to whether third wave is a good way to describe the last twenty years of feminism, there is overlapping consensus on the notion that it is characterized by a central focus on, and method, of intersectionality, which includes a deep dialogue with queer and postcolonial theory, all of which is associated with cultural criticism and social theory, rather than the use of formal politi-

so in political theory in the main, questions about work and politics tend to be framed in relation to the concerns of northern, upper-middle class straight white women. Beyond this, the trend in third wave feminism is to associate problems of work with problems of personal choice and agency.³⁴

This is even truer in the popular press and the feminist blogosphere, where “work/family balance” problems are explained through explorations of the mommy track or other struggles for professional women. Work and its position in a particular political and historical context are transformed into narratives about the personal choices of women in relation to careers, or the struggle for work/life balance.³⁵ This is true despite the longstanding counter-tradition in feminist theory, often led by women of color, to recognize that the housewife or stay at home mom is a privileged exception, and therefore ar-

cal means like legal change. Third wave feminism is often seen as apolitical, in the sense that its general skepticism towards the ability of liberal equality to meet the demands of gendered relations of power and privilege. However, the oft-levied criticism that third wave feminism is apolitical can be another version of valuing formal politics over political work that is not overtly so. This can be seen in the fact that some of the more useful and productive feminist writing on work has indeed emerged from third wave concerns, particularly as influenced by post-colonial understandings and a new turn to materialism. For a good overview of the controversy, see C. R. Showden, “What’s Political About the New Feminisms?,” *Frontiers: A Journal of Women Studies* 30, no. 2 (2009): 166–198.

34. Nina Power, *One Dimensional Woman* (O Books, John Hunt, 2009) makes this critique directly of writers like Jessica Valenti of *feministing.com* and Jennifer Baumgardner and Amy Richards, *Manifesta [10th Anniversary Edition]: Young Women, Feminism, and the Future* (Macmillan, 2010).

35. The latest in a long line of examples is Sheryl Sandberg, *Lean In: Women, Work, and the Will to Lead* (Knopf, 2013), which acknowledges bigger challenges but quickly focus on the way that “women are hindered by barriers that exist within ourselves...by lacking self-confidence, by not raising our hands, and by pulling back when we should be leaning in” (8).

guments about access to work outside the home ignore the women who already do. This is a reformation of the third problem that I began with above; how to gain promote meaningful political work without dominating or denigrating those who do work that is perceived as meaningless. So-called third wave feminism has been pummeled for this lack, as well as for promoting a consumerist version of feminist empowerment that aims at acquiring “expensive handbags, a vibrator, a job, a flat and a man - probably in that order.”³⁶ This can change.

It will change if we include work in the third-wave turn to intersectionality, even as this concept is contested. Intersectionality is a critique of essentialism, and an argument that gender interacts (or intersects) with other categories of difference, such as race, class, sexuality and nationality, and that analyzing any of these categories separately is likely to misunderstand the workings of power.³⁷ In part it is in response to the frequent critique that feminist theory and activism centers on the concerns and understandings of white, upper-middle class women in wealthy countries. Intersectionality, given its resistance to the limitations of previous feminist and antiracist discourse that marginalized black women or those who did not fit the dominant modes of understanding, remains a

36. Power, *One Dimensional Woman*, 1.

37. Kimberle Crenshaw, *On Intersectionality: The Essential Writings of Kimberle Crenshaw* (New Press, 2014).

dominant paradigm in feminist thought, even as it remains contested.³⁸ Indeed, it retains its appeal precisely because of this contestation, in that it “encourages complexity, stimulates creativity, and avoids premature closure, tantalizing feminist scholars to raise new questions and explore uncharted territory.”³⁹ Adding in work at the complex intersections of identity is one of these diverse territories.

While intersectionality counts “class” as a key mark of difference that interacts with other discrimination, its practitioners might fold work into class as if it were the same aspect of human life. Indeed, class may be a difficult category for intersectionality to grapple with, because it is difficult to measure class in a global context, where its production occurs not at a local or national level, but in relation to a complex system of capital and migration flows. Thinking class and gender together is also complicated by the (interesting) problem of where women’s class comes from: childhood, husband, and occupation? Deepening the consideration of class and work will strengthen an already strong research agenda in intersectionality and global work that shows how work is not a neutral backdrop onto which political activity occurs, or from which workers transform into citizens, but rather the process through which both gender and models of good citi-

38. Perhaps it is “the most important contribution feminism has made so far,” according to Leslie McCall in Emily Grabham et al., *Intersectionality and Beyond: Law, Power and the Politics of Location* (Routledge, 2008), 49. Other contributors to the same volume, ask whether intersectionality has outlived its usefulness.

39. Kathy Davis, “Intersectionality as Buzzword” in Helma Lutz, Maria Teresa Herrera Vivar, and Linda Supik, *Framing Intersectionality (Epub) Debates on a Multi-Faceted Concept in Gender Studies* (Ashgate Publishing, Ltd., 2012), 52.

zanship are reified into habit.⁴⁰

The third body of literature that contributes to this study, but also needs to be put into dialogue with other perspectives, is that of public work, led by Harry C. Boyte. Public work advances “a normative, democratizing ideal of citizenship generalized from communal labors of creating the commons, with roots in diverse culture.”⁴¹ This approach begins from the work individuals do, arguing that anyone can work towards the public good from whatever job they find themselves, whether lawyers or masons.⁴² Boyte provides a powerful defense of the idea of citizenship as “co-creation,” drawing on the civic minded traditions in American history as well as a broader theoretical defense of the need for democratic people to help mold the conditions under which they live. He also produces a critique of the “experts” driven approach to citizenship that dogs some theory and practice, arguing for the reception of ideas that the “masses” need to be made fit for

40. Rhacel Salazar Parrenas, *Servants of Globalization: Women, Migration, and Domestic Work*, 1st ed. (Stanford University Press, 2001). shows how workers’ Diasporas, in this case experienced primarily by Philippine women, produce what she calls “dislocations” for the subject themselves and also, at the macro level, the structure of what we call globalization. She builds on the earlier work of Saskia Sassen, *The Global City: New York, London, Tokyo.*, 2nd ed. (Princeton University Press, 2001). who shows how the low-cost factory labor of women in developing countries has been instrumental in allowing for the proliferation of neoliberal regimes of trade and migration.

41. Harry C. Boyte, “Constructive Politics as Public Work Organizing the Literature,” *Political Theory* 39, no. 5 (October 1, 2011): 630–660, doi:10.1177/0090591711413747, 1.

42. Harry C. Boyte “Civic Agency and the Cult of the Expert,” accessed April 2, 2013, <http://kettering.org/publications/civic-agency-cult-exp/>.

normative citizenship because of the type of work they do⁴³. Boyte focuses, as I do, on “resurfacing the concept of *public* itself,” through the development of programs that meet citizens where they already are, and transforming the work they can do to a public purpose.⁴⁴

Ultimately, this dissertation defends a type of public work argument, but asks that we think more about the “work” term. I think that this is necessary for three reasons. First, it may take more than public work to change the parameters of work itself, especially given Boyte’s clear opposition to technocracy, eroding the hierarchical distinctions between “professionals” and other workers and “silent civic disease.”⁴⁵ In other words, public work may be less transformative of the conditions of work itself, given the focus on supporting public projects that come out of one’s workplace skills, rather than questioning the workplace or its conditions. The slow and often dull smallwork that occupies political work is agnostic as to the content of the political work that is done, and silent as to whether the form of work (both in terms of paid employment and in its political definition) is itself antithetical to the very public work politics he advocates. Boyte is not un-

43. To get beyond the cult of the expert, Boyte argues “Sustained interaction between different kinds of knowledge also requires reconceiving institutions as living communities and dynamic cultures” and seeking to make them responsive to the knowledge of everyday citizens (“Cult,”3).

44. Sara M. Evans and Harry C. Boyte, *Free Spaces: The Sources of Democratic Change in America* (University of Chicago Press, 1992), xvi.

45. Harry C. Boyte, *The Citizen Solution: How You Can Make a Difference*, 1st ed. (Minnesota Historical Society Press, 2008), 22.

aware of this problem; indeed, he faults some community organizers for failing to recognize how service industries “demobilize agency” and sees this as part of a larger failure to accurately conceptualize power realities.⁴⁶ We are left with the question of “how to develop a politics that can change the landscape of modern societies by reworking the cultures and associated practices of diverse institutional settings.”⁴⁷ This question, of how to rework cultures and practices, motivates my interest in work, which I suspect is important as more than a source of skills.

Underlying political uses and definition of work might not be diminished by the cultivation of public work, and indeed may remain as stubborn blocks to democratic solidarity. As Public Work approaches continue to focus on the professional classes through engagement with education systems, the gap between the self-organizing capabilities of elites and everyday people continues. This is made even more pressing by the (intentional) avoidance of thinking gender in Boyte’s work. His critique of identity politics and “rights talk” demands as consumerist and individualist is well taken; indeed, it forms part of the impetus for this dissertation. But, we can perhaps think gender without doing identity politics. Work is too intimately tangled with gender production and politics in the United States for this to remain under theorized. In particular, without gender it is diffi-

46. Harry C. Boyte, “Harry Boyte Lecture at the Faith & Public Policy Forum, March 16th 2011 | Christianity & Contemporary Politics,” accessed April 2, 2013, <http://christianitycontemporarypolitics.blogspot.com/2011/03/harry-boyte-lecture-at-faith-public.html>.

47. Ibid.

cult to see how public work can include those who are outside the realm of what is generally considered work, professional or no, such as unpaid or paid workers in the home or other providers of care work. If work is to be public it is not only the distinction between manual and professional labor that must be overcome, but also between care and maintenance work and political work. It is this move that will help complete the task of recapturing the concept of “makers” from the continent of free market advocates who use it to denigrate the “takers” of welfare, so that making comes to be celebrated as contributions to the common good.

1.4 Statement of the Problem and Research Questions

Three questions center this investigation. What is the political relationship of work to labor, or, put another way, how can we understand hierarchy of work? This leads into the problem of whether and how work/labor hierarchies relate to political citizenship, in both a status and normative sense. Finally, can political work be valued without devaluing work that is not political, particularly physical or care labor that has been understood as its antithesis?

This dissertation thus seeks to address the gap in political theory surrounding the status of work. First, to show that democratic theorist unthinkingly import assumptions about work into their concepts of normative democratic citizenship, which on the surface seem unrelated to the workplace. Second, that even those theorists who are more attentive to the status of work as potential exclusionary device, such as Marxists and feminists,

erode the public dimensions of work. And, finally, that public work theorists need to think about the relationship of *public work* or the work of citizenship, to the everyday work that people do for money (or not). This involves critiquing the division of labor formed on the family, as well the challenges to the contemporary labor market and its practices pose for normative democratic citizenship. This project is necessary to advance this project of public work, and also to move beyond the current paradigms in democratic theory to produce a transformative “political theory of work.”

1.5 Significance and Purpose

To address this problem, I take a two-pronged approach that converges into a single normative argument. First, I address the democratic theory literature, looking for the unspoken role of work in arguments about what democratic citizens should do. I ask what theoretical assumptions theorists make about skills and motivations. Along with a tendency to assume that citizens are professionals, democratic theorists often neglect to explain how the public space on which their theory is premise is itself created. I show how this lack emerges from the work of Jürgen Habermas, whose own arguments about the relationship between the economic and public spheres are lost as his ideas are adapted by participatory, deliberative and agonistic democrats. Second, I examine two historical case studies that expose the complex relationship between work/labor as productive human activity and the work of political citizenship. The first is the struggle over early American Citizenship capped off by Shays’ Rebellion. This case shows that the Regulators were

motivated to contest the basis for constitutional competency in their world because of their shared ideas about the polity's commitment to a political economy that met the needs of citizens. I then trace how the independent yeoman model of citizenship that substituted for this populist citizenship of the Regulators was put into question again through industrialization and urbanization, which led progressive theorists to advance massive projects of social work. Their efforts led, perhaps unintentionally, to the exclusion of women from the public sphere, and they contested this exclusion in a variety of ways. I interpret the temperance movement as a key part of this contestation, not least because it served as a veiled demand for recognition and remuneration for the work of women. From these two events, and the legal cases that help illuminate their contours, I develop an argument for what sort of practices and strategies a political theory of work that does not reject labor. It must be attentive to need and the citizen made superfluous, and focused on the work of building public spaces. I then discuss contemporary challenges that further complicate the status of work and citizenship, in terms of the labor market and its anti-democratic potential. Finally, I argue that Hannah Arendt (with the help of feminist and public work theory) provides a useful theoretical basis for a normative democratic citizenship housed in work and the interconnections between labor and work, supported by the policy changes and practices. Arendt does so because she lays out the complex interconnections between labor, work and politics.

This study is important because it intervenes in one of the few areas where political theorists are actively working to changes real practices of citizenship, in the United

States and abroad. Work, or lack thereof, is a central experience for most adults, and many children and elderly worldwide, and it is through exploring its political resonance that equality will be possible. Practitioners, particularly those working the community organizing tradition, will be able to use this knowledge to make better practical designs in their organizing. In particular, thinking about the systemic problems of work provides a vehicle for the large-scale transformation of society and social practices, which has been a problematic shortcoming for the locally oriented citizenship movements. Finally, this dissertation advances a novel reading of Hannah Arendt that, in the narrow world of academic theorizing, can produce exciting new conversations about the relevance of Arendt for actual political action.

1.6 Theoretical Framework

The methods appropriate to studying such a problem combine theoretical argument, the socio-historical focus on the interrelation of historical event and theory that makes up the method of Hannah Arendt, feminist standpoint theory, and the use of case studies. In particular, this means starting from the self-understanding of participants in political events, and understanding historical events as casting particular lights on ideas, even if they do not fully explain them causally.

Arendt says in *The Human Condition* that we must “think what we are doing.”⁴⁸

This seems rather blasé, but it contains a great deal of her method, which is often derided for lacking theoretical coherence. The first piece of is a claim that we do *not* typically accompany action, particularly political action, with thoughtfulness. Arendt identifies this practice as intimately connected to totalitarianism and loneliness, the twin phenomenon she links to the dehumanization that allows for genocide and the total destruction of the public space. The concept of “the banality of evil,” which is often misunderstood to mean that evil is a part of everyday life, refers instead to the inability to exercise judgment in any way, and therefore to recognize evil. To “think what we are doing” involves not only a reflective capacity, but also a political judgment that requires communal engagement and dialogue.

It is in fact this capacity for judgment that is at the heart of Arendt’ interest in historical study, which she does not approach lightly or without considering what it is to examine the past. Arendt’s broader theory is rooted in the concept of natality: the capacity of each human to begin something new. Her understanding of the place of history and social theory thus reflects this capacity and rejects causal determinacy. The cyclical processes of the natural world are, for Arendt, opposed to the mortal linearity of individual human life, which can only punctuate itself, or move beyond pure *bios*, or bare life,

48. Hannah Arendt, *The Human Condition* (University of Chicago Press, 1958), IV.

through *action*.”⁴⁹ Her argument is that the Greek concept of greatness performed this feat, at least for the Greeks, in that courageous acts were taken themselves to “shine” as provide a focal point for historical memory.⁵⁰ In the contemporary world, this shining is not visible because we have lost the space of appearances in which it shows itself because “world-alienation” is, for Arendt, following Marx, the characteristic of our age.

To do history in light of world-alienation, or what she calls the explosion of our concepts of western political theory, requires more than story telling.⁵¹ However, even in a world without these transcendental concepts where we must think “without bannisters,” a type of history, and theory, is possible.⁵² Arendt indicts modern social science for attempting to treat humans as malleable natural material, because this misses the fundamental state of plurality and natality that characterizes human life. Even history, which is a type of fabrication, is mistaken when it imagines itself as a management process

49. “The subject of history is these interruptions, the extraordinary, in other words.” Hannah Arendt, “The Concept of History; Ancient and Modern” in Professor Hannah Arendt, Hannah Arendt Peter R. Baehr, and P. R. (Peter R.) Baehr, *The Portable Hannah Arendt* (Penguin, 2003), 572.

50. “The task of the poet and the historiographer...consists in making something lasting out of remembrance.” *Ibid.*, 574

51. Hannah Arendt, *The Origins of Totalitarianism* (Harcourt, Brace, Jovanovich, 1973).

52. Arendt adapts this term from a question Nietzsche’s Zarathustra asks, connecting her work to his critique of the Western Tradition. Perhaps, “if political theory is to attempt to be adequate to the politics of the twentieth (and now the twenty-first) century, it *must* think without a banister and without any nostalgia for one” in the light of Arendt’s claims. Tracy B. Strong, *Politics Without Vision: Thinking Without a Banister in the Twentieth Century* (University of Chicago Press, 2012), 2.

through which self-evidence historical truths are accesses.⁵³ This is the sort of open-ended historical work that Arendt advocates.

Arendt practices this sort of history in her monumental exploration of totalitarianism, and in doing so provides a model for understanding the conceptual history of work. The task of the historian, or political theorist, who come after totalitarianism, in which she says that “all traditional elements of our political and spiritual world were dissolved” is difficult.⁵⁴ *Origins* does not contain a fully worked out defense of her method, which caused critics to complain that it was scattershot and without plan. They took particular umbrage are her refusal to imply causality, instead speaking of the “subterranean streams” or “crystallizations” that provided the grounds for totalitarianism.⁵⁵ Her interest in natality and beginnings is clear here, but so too in its “fragmentariness, historical dead ends, failures and ruptures.”⁵⁶ Indeed, central to Arendt’s method is the connection be-

53. Instead, historical work is political “only insofar as the end product of fabrication is incorporated in the human world, where its use and ultimate history cannot be predicted, does even fabrication start a process whose outcome cannot be entirely foreseen.” Arendt, *Human Condition*, 587.

54. Arendt, *The Origins of Totalitarianism*, viii.

55. Hannah Arendt, “Ideology and Terror: A Novel Form of Government,” *The Review of Politics* 15, no. 3 (July 1, 1953): 303–304. “[F]or Arendt, an excessive concern with causal connections blunts our sense of the meaning of historical events, even in those cases where monocausal explanations are eschewed in favor of multicausal ones, and seduces us into imagining that events are merely parts of an interminable process.” Taran Kang, “Origin and Essence: The Problem of History in Hannah Arendt,” *Journal of the History of Ideas* 74, no. 1 (January 2013): 144.

56. Seyla Benhabib, “Hannah Arendt and the Redemptive Power of Narrative,” *Social Research* (1990): 167–196.

tween ruptures, events, beginnings and the search for understanding and narrative, or, in Montesquieu's terms, the springs that sustain a regime.

Furthermore, Arendt's admonition that we begin from the self-understandings of participants resonates with feminist epistemology that advocates a type of modified standpoint theory.⁵⁷ Standpoint theory is a method that rejects the idea of universal truth, and instead asks about what sort of multiple knowledges we can glean from various "standpoints," which are usually associated with the marginalized.⁵⁸ This approach rejects essentialism, universalism and scientific positivism, but the best of them also go beyond the idea that women, or other non-white males, have a privileged and unique view on the world. Instead, standpoint theory has evolved towards something I might call more clearly multiple standpoint theory, which has strong linkages with participatory research, oral history and community oriented research. It also helps justify the use of past events and various perspectives on these events to provide a fuller picture of the genealogy of ide-

57. Standpoint theories are "[f]eminist efforts to identify criteria for theory choice drawn from disciplinary standards such as systematicity and comprehensiveness are themselves implicated in modernist practices that politicize science without disrupting the general privilege accorded scientific explanations in the broader world of scientized politics. They confirm the "quite modern political sensibility that casts the "political" as coextensive with the organization and management of a system of social relations and that consequently renders political action importantly dependent upon the production of properly scientific knowledge of that system." McClure, "The Issue of Foundations: Scientized Politics, Politicized Science, and Feminist Critical Practice," in Judith P. Butler and Joan Wallach Scott, *Feminists Theorize The Political* (Routledge, Chapman & Hall, Incorporated, 1992).

58. Recent formulations have added "situated imaginations" to the list. Marcel Stoetzler and Nira Yuval-Davis, "Standpoint Theory, Situated Knowledge and the Situated Imagination," *Feminist Theory* 3, no. 3 (December 1, 2002): 315–333, doi:10.1177/146470002762492024,

as. Standpoint theory asks about the interrelationships of ideas and social positions; my goal in looking at historical events is to trace some of this relationship, with particular attention to the experiences of women and workers.

History is difficult to study responsibly. As feminist historiographers remind us, perhaps our interpretations of historical events tells us more about how we'd like to intervene in our own presents than about history itself.⁵⁹ Given my intent of arguing something about the present using, in part, historical events and interpretations, this warning is well taken. My argument that work is central for citizenship as conceived in political theory, however, stands on its own without the additional exploration of the historical episodes of Temperance and Shays. However, given the role of each as a moment of constitutional creation and their warnings about the complexity of the relationship between work, citizenship, gender and class, the light they shine is worth examining. However, the use of historical event to inform theoretical work is in the tradition of American political thought, where intellectual ideas are intimately connected to historical events.⁶⁰ Fur-

59. It is possible that claims that “a corrective approach will be likely to erase the conditions of its own construction” and that feminist theory should be cognizant of the dominant narratives within its own construction. Antoinette Burton, “Thinking Beyond the Boundaries: Empire, Feminism and the Domains of History” (2001), 15.

60. See: Judith N. Shklar, *Redeeming American Political Thought*, ed. Stanley Hoffmann and Dennis F. Thompson, 1st ed. (University Of Chicago Press, 1998), which is conducted primarily as a descriptive historical project. While she died before finished the project, Shklar demonstrates here (and in *American Citizenship*) the productive nature of joined historical and theoretical inquiry. She says, “apart from the early establishment of representative democracy and the persistence of slavery...American Political Thought is just an integral part of modern history as a whole” (*Redeeming*, xiii). Political theory “manifests a special relationship to American politics and exemplifies most sharply the relationship between the

thermore, non-ideal political theory seeks to say something about the social and political world, and cannot be undertaken in good faith without attempting to connect reason and theory to actual events. Shays and temperance are ripe for this connecting, and historical inquiry is particularly important, if also fraught, for political theory interested in social change.

Why Shay's Rebellion? Surely this is a small drama in a larger story of populist revolt, with events or movements that better illustrate my central contention that Shays exposes the connection between work and citizen claims to constitutional competence. One option would be to study the history of the American labor movement, or one of its episodes. I have not done so because I am interested in part in how citizenship is formulated at the founding of the United States, and unions are not yet a key player. I also worry that an historical exploration of labor is a monumental task in itself, and obscures the purpose of using a case study.⁶¹ Shays is useful first of all because it occurs at a moment of possibility, under the Articles of Confederation, where alternative legal rules and cultural practices were real. It also provides an interesting exploration of one of the

American Academy and public life," John G. Gunnell, *The Descent of Political Theory: The Genealogy of an American Vocation* (University of Chicago Press, 1993). His claim is that this relationship is often one of tension and separation; the discipline of political theory holding itself apart in order to attach itself to the vaunted tradition of western philosophy while remaining free of the mess of politics, but still consistently in contact with political discourse.

61. However, a consideration of the relationship of work to politics in the United States does need to be linked up to the history of the labor movement, the primary vehicle for contesting the conditions of work and also key for understanding producerist ideology. I hope to do more of this work in the future.

“streams,” in Arendt’s language, that flow throughout the American narrative; for Arendt, the moment of the revolutionary founding of the American polity is one of these historical ruptures or events that shows us possibility, but one in which the possibilities of founding freedom institutionally were not fully realized. If we take seriously the non-causal method of Arendt’s historical theorizing, than we can look at Shays to understand other paths that could have been taken.

Temperance is even more fascinating because it contains the only example of a successful Article V repeal of one of the few successful Article V amendments. This constitutional shift is linked to a broader constitutional change in the status of work and worker’s citizenship, and its failure is linked to the exclusion of women from the public space. While the world of temperance seems far removed from our own struggles with unemployment and global supply chains, dynamics around politics and family life are not so different. Indeed, a different and more historical way to put my claims is to suggest that the regime of citizenship put into place after temperance failed (and with the aid of labor unions) was and is incompatible with the full political membership of women, and perhaps even of workers as currently situated.

While there are certainly other ways to understand these historical episodes, my goal is not an historical argument about whether fights over the definition of work and its relation to citizenship were the explanatory elements variables that defined this history. Nor, while I do think it is likely, am I tracing the full genealogy of current understandings of work and politics back to the early 20th and late 18th centuries. Instead, I hope to bring

to light a neglected current of thought in each of these episodes, which does suggest that attending to work and how it is understood changes how we view historical episodes and the construction of institutions.

1.7 Limitations to this Approach

There are no doubt many limitations to this study, but by far the most glaring are the provincial nature of the subject matter and the limits of discussing two historical cases and making broader claims in relation to them. This work is provincial first of all in the sense, despite interdisciplinary tendencies, of setting itself in relation to western academic political theory, particularly as dominated by U.S. academics and readers. My justifications for this are thin, although I suppose I could mount an argument that because it is this traditional that is deeply involved in the project of contemporary liberalism, than it make sense to approach the problem of work under liberalism by asking about its theory.

Secondly, and more problematically, the dissertation is hampered by an overly localized focus on the United States. All the world was America, or so I've read, and perhaps if the homogenizing powers of global capital proceed unchecked, will be again. Currently, citizenship as legal status is still mediated by nation states, although citizenship as normative orientation is shifting somewhat to alternative loci, such as forum of global governance, diaspora networks or hybrid forms like the European Union. Work, while relentlessly caught up in the global political economy, rather than a local or national one,

is also still oriented in relation to a localized regime of rule, regulations and cultural practices that interpret its status in particular ways. Indeed, if there is an American exceptionalism to be identified, it may lie in our particular orientation towards work and citizenship.⁶² Certainly, even without arguments about the proliferation of American values via global capitalist expansion, we can see historical and theoretical engagement with the value of work in many contexts. So too would be a more globally oriented exploration of the way that migration, and the mobility of capital relates to the patterns of the global work experience and how it relates to emerging sites of citizenship. I hope to explore these projects in my future work.

1.8 Key Definitions: What is work?

What do I mean by work? In physics, work is understood as a measurement of the action a force produces, but in the human context it is more complex. Commonly, we discuss work in three ways; as what is rewarded with a paycheck, as the product of an endeavor, or, more broadly, to refer to any productive effort. The last category often overlaps the older concept of “labor,” which tends to refer to any toil or task, particularly when it is not seen to produce a product. In the market centered society, the first under-

62. For a beautiful, brief book on this claim, see Shklar, *American Citizenship*.

standing of work as what is exchanged for a paycheck is dominant. Or, put another way, the labor that is seen as productive or useful is rewarded monetarily and socially and therefore counts as “work.” We might initially say that work produces something, and that is why it is monetarily rewarded, a paradigm that is easily to understand when thinking work that occurs within the realm of industrial fabrication, construction, or even art. But what does the so-called service economy produce? At best, we can say it produces the physical and mental well being of others, but this abstract quality is hardly the same sort of product as a car or house. It is not satisfying to say that work is simply the production of goods, and the reception of other goods, because with this loose definition most of human life can be grouped into this category.

One way of categorizing work has been through measures used historically to understand the strength of various economies. Work would thus, in the modern age, be whatever is captured in the standard measure of Gross Domestic Product. We also, of course, measure unemployment rates, a statistic that is measured in the United States in an odd way, in relation to those who are reported as “seeking work”. In all of these measures, some type of work is captured very clearly, and measuring via the market mechanism, which prices goods and services on a global scale. Other types of work, included unpaid, illegal and other grey areas is more difficult to capture, although all seems reasonably part of what “work” is. To understand work as a specific category of human existence, we must go beyond the common measures of economic productivity at a macro level.

My working definition is that: work is purposeful human activity orientated toward a useful outcome, particularly but not exclusively, activity directed towards the satisfaction of human needs. The last term is defined very broadly, and in my interpretation linked back to the concept of “purposeful” and therefore moving beyond the respiratory. I also intend to follow Hannah Arendt in attempting to separate labor and work. The distinction will need to be explored and toyed with, but is ultimately useful, although ever problematic. For Arendt, work and labor are distinguishable by the products they do (or do not) produce. In *The Human Condition*, she tells us that labor is the reparative and animal functions that keep us alive; here is consumption, metabolic activity and the push of necessity. It “corresponds to the biological process of the human body.”⁶³ Work “corresponds to the unnaturalness of human existence” and is what produces a world outside ourselves in which we can live, adding stability to our existence.⁶⁴ This distinction, with its association of metabolic and nutritive processes with labor, has rightly struck many as highly problematic. However, as I argue in Chapter Five, the categories of activity should be understood as more of a complex spectrum than a stark delineation. The importance of both work and labor does not break down to an argument that each of these are necessary for the production of her third term, *action*, which is at the heart of political freedom. This is a true claim, particularly for the work that she notes is key for the production of a

63. Arendt, *Human Condition*, 7.

64. Ibid. For a detailed discussion of this distinction, see Ch. 6.

common world in which we can act.⁶⁵ Indeed, Arendt herself reminds us that “this only means that man is never exclusively *homo faber*, that even the fabricator remains at the same time an acting being.”⁶⁶ What is important for Arendt, and I think should be important for us, is the *political* salience of these categories and the *political* trauma that results when they are mixed up. The problem is not that labor is without dignity, but that when we mistake labor (and consumption) for that matter, for productive work or political action, our lives are less rich. Another way to put this is to say that we cannot subsist on faux citizenship that is enacted through mere work or labor (i.e. wage labor or housework), but need a citizenship housed in communal endeavor.

Currently, there is little work or action for most of us, even those in the so-called creative class who might perceive themselves as divorced from the labor of the working classes. So, a political theory that takes work seriously is not anti-labor, but rather asks that we work to distinguish labor from politics and work, perhaps not along the exact lines that Arendt does, but in hope of expanding our collective ability to work.

The heart of the debate, within social theory, has been whether work is a fundamental aspect of human existence, to be celebrated, or a drudgery to be escaped, if possible. For much of human history, the daily work of individuals was directly connected to

65. For an introduction to the world making aspects of Arendt, see Linda M. G. Zerilli, *Feminism and the Abyss of Freedom* (University Of Chicago Press, 2005).

66. Arendt, *Human Condition*, 587.

contesting nature for sustenance, and thus the weight of toil was inescapable. The move that Marx makes is not to redeem this biblical suffering in work, but rather reject it as a model for (certain types of) how people live in a capitalist system. For Marx, at least in the 1844 manuscripts, the problem with modern labor conditions is the problem of alienated labor and surplus value, which the owner of the means of production is able to exploit from his workers. This is based fundamentally in the idea that workers produce more than the equivalent of what they need to live, and yet are remunerated only at that base level. Indeed, the idea of “profit” is housed in the idea that you can generate more than you will need to pay out in wages, although of course finance capitalism complicates Marx's picture considerably.

There does, however, seem to be differentiations we make between work that is meaningful and work that is mere drudgery, or done only for a wage. I think that this distinction is ultimately very important, but that our current orientation is overly dependent along a set of ideas about “vocation” developed from Martin Luther, and perhaps even Max Weber's exploration of the relationship of Protestantism and work. For Luther, work is intimately tied to the idea of a God-given vocation. There is theological tension between the idea of work as a calling from god and the dehumanizing labor that many perform.⁶⁷ There is also the odd tension between the idea that each person has one calling,

67. Miroslav Volf, *Work in the Spirit: Toward a Theology of Work* (Wipf & Stock Publishers, 2001).

for life, and the frequency with which most individuals switch jobs, careers and homes.

In other words, we still run up against Aristotle's problem, or the problem with Aristotle, which is that valuing political work has often occurred at the expense of other types of work. Even if we move from a vocational understanding of work, we will still want to be able to distinguish between work which is beneficial for individual human flourishing, and work that is not. This statement is not as straightforward as it seems, as one way of understanding work is to see society or humankind as a larger project, and the division of labor within it as relatively unproblematic. Aristotle is the most famous and earliest proponent of this idea, arguing that each part of the city is important to the whole. Of course, even in Aristotle, the contradiction between the idea that each part is important to the greater whole and the fact that some are honored and rewarded more than others rears its head, in the form of slavery. This is the same argument employed frequently by those resisting the claims of the excluded to full citizenship, whether they are enslaved, without land, or the wrong gender. When the excluded espouse the same sentiments as Aristotle, they are usually dismissed as ideologically co-opted, or otherwise unreliable.

We have not solved Aristotle's puzzle; there are situations in which we accept that the work of some will be hard, dangerous and unpleasant, for the good of all. One obvious case is that of women in the home. While there are plenty who contest claims that housework is hellish drudgery, most who defend homemaking as a fully equal position do so on the basis of the entire project of creating a domestic family space, rather than claiming that diaper changing, or vacuuming is reward in and of itself. Similarly,

most of the bridges, sewer systems and other engineering marvels of the 20th century came at great cost in terms of human life, which is no surprise given the local and engineering difficulties of these projects. These speakers did not understand their work as meaningless drudgery, which was additionally dangerous, but rather saw the end of the work as a broader project, indeed as essential to the growth of the city itself. Furthermore, just as some women speak about the deep satisfaction of raising children or running a household well, these workers speak also about the jobs in the physicality of their work.

The harder question is not whether we want to adopt Aristotle's ideas of natural slavery, and consign certain sets of workers officially to it. (Certainly, we do this without noticing all the time, given the relative scales of quality of life along the global supply chain, or the closer to home example of labor by non-citizens, which frequently occurs without legal protections for these works.) What the real problem lies is in how to differentiate between meaningful work and meaningless work without either dissolving into vocational relativism which relies on subjective happiness (any job is good if you like it) or, alternately, adopting a system which takes up the traditional privileging of intellectual over manual, men over women, master over slave, white over various shades of brown. Even assuming that work can be categorized in this way seems odd, as the massive growth in the service industry, as well as the many communicative industries surrounding media and internet activity, has made a larger and larger share of the global population into "knowledge workers." We might also note that, in terms of remuneration, it is hardly

the intellectual elite who are profiting. Instead, we might see entertainment as the privileged set of jobs, including sports stars as well as those in media.

Arendt is helpful in providing a new formulation of Aristotle's puzzle, because she introduces into the equation a third term, separate from labor or politics: work. As noted, I reluctantly retain Arendt's adoption of the split between work and labor- that of what creates the shared world in comparison with that which merely keeps us alive as animals, although I want to problematize how she applies this distinction. Where we draw the lines between labor and work, and how we value them, is a central problem for political theory. Definitions of work have consistently delineated political and class boundaries, so that frequently "labor" is characterized not in relation to its product or importance to the larger human community, but rather in relation to who completes it. In particular, work has played a central role in producing gender roles, which then are reflected through prisms of class, race and other identity factors. Arendt rejects these sorts of classifications in theory, even as she struggles to do so in practice.

This problem is difficult because to debate what is and is not work is already to privilege one type of human activity over another. Although some privilege is inevitable, this privileging should take place with full cognizance of what is at stake. To illustrate this, we can look at debates around human activity that has long been conceived as a naturalized piece of family life, appropriate for women, slaves or underclass. The tension around work in the home that has been a central concern of feminist politics and theories is thus also tension around the concept of work and what counts. The debate has typically

taken the shape of a difference/equality argument, with one side arguing the work in the home ought to be valued in its own right, with the other suggesting that all individuals should have equal access to the privileged sphere of work and less responsibility in the labor department. Both sides of the argument have strengths. A central approach to gender equality, theoretically and by activists, has been full access to the professional work that that women were formally blocked from, including efforts to gain equal pay for equal work. Critics of this liberal feminism, particularly women of color and queer theorists, note that access to work is an issue for upper class white women whose role as housewives is a class-privilege even as it is limiting in relation to privileged men. Access to professional jobs, and the incumbent struggle over work/life balance, is not then the extent of the dilemma facing feminists and work. Instead, it is important to recognize the historical and ongoing association between class, immigration status, gender and particular kinds of work, and how they are rewarded.

The heritage of care theory is taken up in relation to work by thinkers who reject the drive to push women into the traditional spheres of male influence, and instead advocate revaluing labor that is currently understood as “not-work,” either because it is unremunerated in the home, or seen as unskilled.⁶⁸ If this work were valued more, in mone-

68. Angela Davis puts this point most forcefully in her criticism of the “wages for housework” movement, which she faults for not recognizing the experiences of black and immigrant women who have long worked outside the home and still experience low wages and weak bargaining positions. “Quite a different story is told by the age-old struggles of the paid household worker, whose condition is more miserable than any other group of workers under capitalism.” Angela Y. Davis, *Women, Race, & Class* (Random House Digital, Inc., 2011), 239.

tary terms, perhaps those who perform it would also be afforded greater public respect. Along with calls for wages for housework, care theorists have also studied occupational segregation and advocated for “equal worth” legislation that attempts to moderate market based compensation by mapping out the value produced by various types of labor, and advocating that those requiring similar levels of skill or producing similar levels of value be paid the same. This aims to discontinue a situation where jobs that are still predominantly full of men and destabilize the easy distinction between labor and work.

1.9 Conclusion

It is clear from the proceeding that labor and work are deeply contested concepts in the actual world, and studying their contestation needs to become part of political theory as well. What follows is a record of their contestation, first through the way of democratic theory and the contemporary challenges of work to these theories, then through historical case studies which provide models for changing definitions of work and citizenship, and finally via Arendt, who opens up new possibilities of building on these models to advance constitutive work while valuing labor. I end with some arguments about the economic and social policies, as well as institutional arrangements, that will support such a democratic theory of work.

CHAPTER TWO: WHERE IS WORK IN DEMOCRATIC THEORY?

2.1 Introduction to the Argument

To understand how work/labor hierarchies relate to political citizenship theoretically, I explore what sort of political work is promoted and assumed by prominent democratic theorists. I look not at theories that consider work, but rather those which ignore it, or, as I will claim, assume it takes a certain form without exploring what such a designation means for the those understood to be undertaking the wrong work. I look specifically at theorists of the public sphere, which I see as central to the main variations of democratic theory today. The strongest proponents of democratic theory are all guilty of this, to a great extent because they begin their investigations by assuming that there is politics on one side and the economy on the other. Or, even worse, that when they do meet, the political is subsumed by the economic. This understanding of society is not neutral, but emerges in part from a neo-liberal naturalization of economics that holds onto the idea that politics is a human construct, under our control.⁶⁹ Looking for the connections between the world of work and politics, even in theories that focus only on the latter, helps us see the importance of bringing these connections to light if we wish to understand ei-

69. This may be part of a larger epistemological problem, as explored in the critique of modernity in Bruno Latour, *We Have Never Been Modern* (Harvard University Press, 2012). Latour's actor/network theory could provide fruitful resources for asking how the public is built, given his interest in hybrid forms, networks and technology.

ther category, much less counter their false separation. What emerges is that work is already always part of democratic theories, in that each assumes that a space for democratic activity, as well as the reproductive labor that sustains citizens *and* constitutions, is already in progress.

While contemporary democratic theory is often characterized as experiencing an “ethical” “dialogical,” or “agnostic” turn, all of these trends take place within a broader paradigm of democratic public sphere. While the public sphere concept has been fruitful in many ways, it can easily fade into the background so that questions of the conditions of its appearance and maintenance go unasked. This chapter traces the place of the public sphere in three prominent forms of democratic theory, seeking to identify how public spheres are created in each. My claim is that democratic theorists too easily take for granted the existence and maintenance of public spheres, moving quickly into disagreements on what happens *within* these spaces, and that attention to the work of building public spheres. Understanding where this work fits into contemporary democratic theory brings to the forefront the necessity of attending to it.

This chapter thus proceeds first by exploring the origins of public sphere concept in the work of Jürgen Habermas, as well as related lines of thinking that emerge from American sources. While Habermas himself problematizes the historically specific creation of the public sphere, at least in his early work, many adopters of his ideas leave behind this problematic as they adopt the concept to suit contemporary idioms. Indeed, a public sphere is often assumed to exist in advanced democracies by virtue of the exist-

ence of media networks and speedy information sharing, although Habermas' concept is premised rather on complex (and contradictory) relationships between economic and political life. I then look at three core concepts of democracy key to current debates: participatory, deliberative and agnostic, examining each for a conception, or lack of conception, of the *origin* of public spheres and for the type of citizenship work it understands as key. Each relies on a particular conception of the type of political work that is required; they all configure the normative citizens as one engaged in waged labor that gives him the skills, particularly language based ones, independence, signaled in terms of property and wealth, and pre-formed public space in which to act politically. Where is the citizen who is outside these spaces, or what happens when these spaces do not exist? These are the questions that remain in democratic theory without consideration of work. First, as political work that creates, maintains or takes part in public spheres; second, work done to maintain life or for a paycheck, which provides an ethos and a status from which to claim political membership (or a space in the public sphere). Strangely enough, Habermas himself points the way towards an answer, in his understanding that public spheres are built both intentionally and to meet the needs of citizens who are conflicted between their social and economic roles.

2.2 How Habermasian Public Spheres Are Built

The Structural Transformation of the Public Sphere, since its translation into English in the early 1990s, has inspired a lively line of inquiry.⁷⁰ Habermas' early work attracted many thinkers, who were not necessarily entranced by his recent writing that further developed arguments about public reason, the European Union and religion.⁷¹ The reasons for this are complex, but in part emerge from the closer resemblance to critical theory in his early writing, even though Adorno and Horkheimer famously rejected *Structural Transformation* as a dissertation project as overly pessimistic about the possibilities

70. Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (The MIT Press, 1991). This was his *habilitationsschrift*, or dissertation type project, undertaken at the famed Frankfurt School under critical theorists Horkheimer and Adorno. For a selection of essays that epitomize this research, see Craig Calhoun, ed., *Habermas and the Public Sphere* (MIT Press, 1992) or the more recent: Craig Calhoun, Eduardo Mendieta, and Jonathan Van Antwerpen, eds., *Habermas and Religion* (Wiley, 2013) which goes beyond *Structural Transformation*, but also looks back at the place of religion in this early work.

71. His masterworks are: Habermas, *The Theory of Communicative Action: Volume 1: Reason and the Rationalization of Society* (Beacon Press, 1985) and *The Theory of Communicative Action: Volume 2: Lifeworld and System: A Critique of Functionalist Reason* (Beacon Press, 1985), followed up by an application of his discourse theory to religion in *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (MIT Press, 1998) and *Between Naturalism and Religion: Philosophical Essays* (Polity, 2008). Religious questions are clearly important to him in part because of their role in discussions of the European Constitutionalism see: Habermas, *Europe: The Faltering Project* (Polity, 2009). For ethical considerations, including religion, see *The Inclusion of the Other: Studies in Political Theory*, ed. Ciaran P. Cronin and Pablo de Greiff (The MIT Press, 2000).

of democracy.⁷² *Structural Transformation* is central for understanding contemporary democratic theory not only because of its influence on other writers, but because it shows how participatory and potentially powerful democracy is constituted in a particular historical moment by a particular (bourgeois) class, and identifies this sort of democratic space as lacking in our own time.

The basis of *Structural Transformation* is the study of a particular “event” in the history of democracy, which serves to illuminate the broader meaning and possibility of democratic life. The concept of a public sphere emerges in a specific historical and socio-economic context, and yet provides a certain model of discursivity and publicity that can serve as models for a robust public power today. In the idealized public sphere, all marks of status and identity are bracketed, and individuals met as equals in discourse. This liberal public sphere, which formed in opposition to autocratic rulers, transformed political power from a top-down projection from the rulers into an interactive discourse by the citizens, who engaged in the unprecedented “people’s public use of their reason.”⁷³ In his reading, this public sphere emerges along with market economies and the accompanying

72 .There is some evidence that Adorno would have accepted it in order to keep working with Habermas, while Horkheimer was worried that Habermas’ work induced “a kind of class study in a tea cup” at the Institute. Rolf Wiggerhaus, *The Frankfurt School: Its History, Theories and Political Significance* (MIT Press, 1995), 555.

73. Habermas, *The Structural Transformation of the Public Sphere*, 26.

flow of information, particularly written information, circulating through European society.⁷⁴

This public sphere is inhabited by particular citizens who emerge also from the growing mercantile class and the erosion of the unquestioned identification of the monarchy with political power. This citizen is “bourgeois,” although the importance of this fact is that bourgeois life provides the incentives and conditions that produce critical orientations towards texts and, eventually, power. To a certain extent, Habermas must be relying on a Marxist understanding of the bourgeois as a class situated in a relation of ownership to productive capital, but he also seems to be drawing on a sociological understanding of the shift from feudalism to capitalism. The “thoroughly bourgeois idea of the freely self-actualizing personality” typifies the general worldview of this subject, reflecting in Habermas’ understanding that non-nobles cannot rest on inherited status, but must produce themselves constantly.⁷⁵ This means that the bourgeois citizen must be constantly on the offensive, working to protect his position or advance it. To this end, he participates in “the traffic in news” which circulates constantly, providing common language, narratives and even syntax for those who read them, so that these flows are the real carrier of the public, which from the outset was a reading public.”⁷⁶ Information is important not for its

74. Habermas develops these claims through a primarily genealogical project that traces the emergence of a public sphere in Europe in the 16th century, and then briefly suggests the contemporary relevance of the public sphere as an aspirational model for contemporary democratic governments.

75. *Ibid.*, 12.

76. *Ibid.*, 13;23.

own sake, but because, without the structure of feudalism, these elites depended in part on the actions of the government to preserve their places. Therefore, they needed to attend (and eventually criticize, together) state policies, particularly in relation to commerce and consumption.

Along with the imperative to consume and recirculate information, the bourgeois citizen is also a private family man, who comes into the public sphere from the safe space of the conjugal family, where Habermas also locates the precursor to the political public sphere: the literary public sphere epitomized by salon culture. In this arena, what matters is one's interpretation of the text or a clever *bon mot*, and social mobility is attached to critical ability and wit. From literary and artistic culture emerge the distinctive character of the bourgeois (political) public sphere as a space where status is disregarded, contestation is the norm, centered around a principle of inclusiveness.⁷⁷ This disregarding of status and money is a fiction, yet a fiction that allows these spaces to flourish. Certainly, it is the growing wealth and status of this class that allows for the production of salon culture, which also hinges on the productive ability of women. Similarly, the bourgeois family is understood as a voluntary association, built on love and supporting the cultivation of an autonomous self.⁷⁸ Yet families too are economic units, whose interests must be

77. Ibid., 23-37

78. Ibid., 48

advanced, even as they must be understood in non-economic terms to deserve the support of the head of household. This cocoon of family life nurtures the ability of public sphere citizens to see themselves as relating purely as humans with each other, outside of the bounds of commodification or ascribed status. The public sphere is thus based on a citizen who is in self-contradiction: on one hand, a literary critic who relates to others purely as a human, and on the other as an economic being seeking to protect or advance his own interests and that of his family. He is, in a sense, the conflation of human interest, or public interests, with private interest- and in the peculiar historical context of the fall of mercantilism, this conflation is only self-contradictory in its (massive) exclusion of those like women and dependents.

In other words, the public sphere citizen is a member of a relative elite, although perceiving this elite status as fundamentally self-made. He is presumed to be a literate head of household with a family, who has substantive interests at stake in the outcomes of political decisions. He has learned criticalness and the ability to speak on a plane of equality from literary public spheres, and applies this sort of procedure to political power without questioning whether the relationships of intimacy and interests of humanity conflict with political relationships or economic self-interest. In order to pursue these interests, the public sphere citizen engages in a critical publicity that makes visible and critiques the operations of public power, through the activity of rational discourse. He thus

possesses “public reason,” of course, and engages in “critical-rational public debate.”⁷⁹ His first task is “critical public scrutiny,” of informing himself about political happenings and forming an opinion.⁸⁰ His opinion is not merely private, however, but is understood as the raw material that, through discussion in public sphere, will become true public opinion through “the critical reflections of a public competent to form its own judgments.”⁸¹ The central activities of this citizen are critical discourse on public opinion.

Habermas makes it clear that the emergence of this subject is concurrent with, and in fact dependent on, the market economy in general and specifically, the commodification of wealth and property that severs their ties to status.⁸² Indeed, he notes that this public sphere functioned on “the identification of “property owner” with “human being as such.”⁸³ Thus those without property are merely potential citizens who “with talent, industry and luck” may sometime become full members of the political community, but until then are superfluous in terms of democracy.⁸⁴ Along with his activities as a citizen, individuals must then also be active economically, either expanding or protecting their assets. Their political standing, while supposedly free of domination itself and seeking to

79. Ibid., 29.

80. Ibid., 76.

81. Ibid, 90.

82. Ibid., 76-80.

83. Ibid., 88.

84. Ibid., 111.

apply the same principles to the state, depends on their productive capacities, such that all those who are unproductive (and thus dependent) can be excluded without friction from the concept of the citizen.

Along with who the citizen is and what he does, inside and outside of the public sphere, it is also important to consider *where* the bourgeois public sphere citizen speaks and deliberates politically. As implied above, the importance of perceived separation between private and public spheres is important for Habermas' understanding of the spatial elements of publicity. As a sphere, it is an organ of the state, which needs a mechanism through which it can receive public opinion, but at the same time it is an organ that functions, at least ideally, independently of either state or family. However, the public space, while modeled on the salons and perhaps occurring in salon like atmospheres, is not strictly physical, but should really be understood as a network, a word that Habermas does not use.⁸⁵ It is properly understood as a network because it is the constantly circulation of news and opinions that provides the material from which public opinion is fashioned. The public sphere is a place in which status is bracketed, and humans interact with each other as humans, deciding on the basis of public rationality rather than an objective consideration. It is a free circulation of ideas. The naturalized conception of the free market as a place of open competition was adopted in the space of the public sphere, which demanded an account of the workings of power (not required of the market because of its

presumed natural status). The public sphere is built through the tension in its members, who have an interest in protecting their private interests, yet also a tendency to proceed via the norms of critical debate. Thus the citizen is, for Habermas, bourgeois, and the space in which he acts politically through discourse is made possible by and in some sense for the sake of economic activity, aided by the need of the newly destabilized state to respond to public opinion.

The second half of Habermas' book traces how this type of public sphere, which only served its critical function in relation to a certain type of social-political configuration, is transformed through the development of pluralistic public spheres, mass media, the culture industry and general widening of the political space to include those classes and genders previously excluded. What results is a depoliticized public where tastes and opinions are exchanged, without the development of critical public opinion, and with the weak show of electoral politics standing in for representation. Habermas thus must ask whether the public sphere is possible as a model for democratic renewal in a world where the "mutual penetration of state and society" makes even the illusion of an independent public sphere unrealistic.⁸⁶

In order to hold up the model of the bourgeois public sphere citizen for contemporary democratic theory, its accompanying exclusions merit consideration. First, the already mentioned classist nature of this sphere is particularly meaningful for societies that

86. *Ibid.*, 179.

struggle with massive poverty and unemployment, which is most of the world. Even if we drew the line around property ownership very broadly, and allowed for debt-holders (who cannot emancipate themselves from dependence) into this group, a vast majority of the world does not possess the basic material or educational goods that would produce the tension that sustains debate in the public sphere. Second, the political public sphere had little space for women, and none for children. They are associated both with the private space of the household and by definition (and law) dependent. This exclusion of course reflects the association of the masculine body and mind with universality; it is seen as logical that a group of men can bracket identity, but womanness cannot be bracketed, as it is visible deviance from the norm. The same can be said of race, given the Northern European origins of this concept, or disability, or sexuality or any other marker of identity politics. While Habermas does not discuss it, we might also wonder what role the old, particularly given the association of age with infirmity and senility, would have in a public focused on sharp debate. It is also assumed that the bearer of this citizenship has a legal right to work and participate where he lives, unlike refugees or undocumented immigrants. The last exclusion is interesting, and betrays the cracks in the concept that eventually allow for some of the excluded groups to work their way in; without status, one earned his or her way into citizenship, rather than inheriting. Thus anyone devoted purely to leisure, such as those in the nobility or, now, the unemployed “slacker” or welfare queen, is suspect.

Thus the key problematic for a contemporary revival of the public sphere is its origins in the tension between life as a producer or as a private economic person and life as a citizen. As Habermas suggests, it is the ability in public life to ignore the sources of material support that makes public sphere citizenship possible. The ability to gain wealth and property makes the maintenance of a household which can uphold the illusion of independence from need possible, which itself fosters the illusion that political space is self-sustaining, even as the impetus for entering political society is the advancement of economic interests, even if one then must bracket these interests in public deliberations. Even if Habermas is correct in supposing that a norm of ignoring status was possible in the public sphere, certainly the way that each citizen spends his life must have real effects on his skills, and even his physical presence, and perhaps also his political ideology. In the bourgeois example, there is the suggestion that the rather contingent situation where economic interests demanded an increase of freedom and the subordination of pure power to rationality- perhaps this same contingency meant that the occupants of the bourgeois public sphere were, given their small size and relative homogeneity, situated as equals in terms of skills, resources and ability to express their ideas in terms of public rationality.

There is, however, no way to hold onto this homogeneity as a restricted public sphere becomes many public spheres, and diverse people gain the right to speak, some-

times in voices that are strange to the bourgeois ear.⁸⁷ We might instead wonder about the formation of publics that have a contested relationship with the public sphere, which we might think of as multiple publics or, if opposed to the mass public sphere itself, counterpublics.⁸⁸ Even in this idea of counterpublics, however, the question of their formation lingers. If they are no longer about shared attempts to arrest and make visible the workings of power, but instead culturally or socially diverse alternatives to political public spheres, they may function to shore up identity and solidarity within themselves, without necessarily bearing much relationship to politics. The question of how to build networks between counterpublics becomes an important question for political theory. For Habermas, the problem of linking counterpublics would be a nice problem to have; instead, he describes a world of mass citizens, or non-citizens, populating mass public spheres and responding to the advertising produced instead of rational discourse. And it is this citizen, as well as social space, which we must confront if we wish to hold a public sphere as an ideal. Indeed, Habermas himself gives us a great deal to think about in this vein, given that his overall portrayal of the current status of political life is rather bleak. In his later work, however, he does not pursue the problem of citizenship in mass democracies or the

87. This is the powerful point of Nancy Fraser's influential critique of Habermas, and particularly of uncritical adoptions of the bourgeois public sphere citizen model. She "entertain[s] serious doubts about a conception of the public sphere that purports to bracket, rather than to eliminate, structural social inequalities" and thus proposes that public sphere thinking should uncover and display how inequality affects public spheres ("Rethinking the Public Sphere: A Contribution to the Critique of Actual Existing Democracy, in Calhoun, *Habermas and the Public Sphere*. 121)

88. These are referred to as "Subaltern counterpublics in order to signal that they are parallel discursive arenas where members of subordinated social groups invent and circulate counter-discourses to formulate oppositional interpretations of their identities, interests and needs" (Ibid., 123).

exclusions discussed above, but instead pursues the concept of critical rationality through a conception of “ideal speech”. A full reading of his later work would take up an entire dissertation; my overall argument is not, however, about the Habermasian citizen but rather how the problematic model of the bourgeois public sphere citizen is carried over into contemporary political theory, albeit under other names. After discussing this importation, I will return to Habermas’ own diagnosis of the problems with citizenship in mass democracies as an orientation forward.

2.3 Participation without Transformation

Participatory Democrats advance a broad set of ideas, but as the name suggests their central argument is that citizens should be more actively involved in democratic decision-making and governance. This strand of democratic theory (re)emerges in the 1960's, often taking its bearings from John-Jacques Rousseau or Alexis de Tocqueville. Given the low levels of voter turnout in the Global North, as well as consistently low ratings of citizen efficacy, considering the importance of citizen participation in the formal political space makes sense. For some, this expresses a deep commitment to liberalism, seen as resting fundamentally on the participation and confidence of citizens. For others, participatory democracy is a full-blown critique of liberal thought, perceived as overly confident that citizens could devote their lives to non-political concerns, while retaining protection of the property and selves, and retaining limited government.

Participatory democratic theory is part of the renaissance of political theory that occurred in the 1960's and 1970's, partly in response to the dominance of positivism in

Political Science as a whole and partly to role of social movements and citizen activism in society. In part, participatory democrats critique elitist models of democracy in favor of direct involvement of citizens, in part to correct inequalities evident in areas such as gendered pay gaps.⁸⁹ Or, participatory democrats might advocate for “strong democracy,” which features “the participation of all of the people in at least some aspects of self-government at least some of the time.”⁹⁰ The focus is on increased democratization and a rejection of representation as sufficient for democratic life.

These and other neo-Tocquevillian approaches to participation accept liberal premises and political institutions in general, but argue that they can only function properly when citizens act in certain ways, and develop a commitment to shared political life.⁹¹ Some of these concerns find echoes in contemporary participatory democrats who

89. Carole Pateman, *Participation and Democratic Theory* (Cambridge University Press, 1970) argues that liberal theory cannot justify the obligations it puts on citizens, in particular in its iterations via elite democratic theory such as that of Joseph A. Schumpeter, *Capitalism, Socialism and Democracy* (Psychology Press, 2012; Gaetano Mosca, *Ruling Class* (McGraw-Hill Inc., US, 1960); and Robert Michels, *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (Hearst's International Library Company, 1915). She advocates instead a model of participatory government developed from the experience of worker's councils, seeking “the feeling that political and social change is possible, and that the individual citizen can play a part in bringing about this change” Pateman, *Participation*, 46.

90. Benjamin R. Barber, *Strong Democracy: Participatory Politics for a New Age, Twentieth-Anniversary Edition, With a New Preface*, 20 Anv (University of California Press, 2004), 44.

91. Alexis de Tocqueville, Harvey C. Mansfield, and Delba Winthrop, *Democracy in America*, 2002. For Tocqueville, the tyranny of the majority is curbed when the populace engages in meaningful local political affairs because their spirit nurtures democratic life, spend time serving on juries which are “one of the most efficacious means society can make use of for the education of the people, cultivates an enlightened self-interest and commercial spirit, curbs his worst tendencies through the moderating influence of religion, and come under the influence of a wife who will restrain his baser instincts as he seeks her ap-

explicitly draw on Tocqueville in their work, arguing for the centrality of mores and relationships.⁹² These approaches offer variations on participatory democracy focused on civil society and activity that is not expressly political, but may be religious or social with side benefits for democracy. In this view, citizens cultivate community through voluntary associations; they gain trust and become more likely to participate.

The *who* and *what* of participatory democracy seem initially to contain everyone, given that a primary basis for criticisms of aggregative, representative and elite democratic systems are their rejection of democratic equality, and the requirement that good regimes require good (active) citizens. However, the citizen is still assumed to have a certain sort of skills, and be a certain sort of person. Above all, the citizen must gain the type of independence that allows for political activity, both in the material sense of providing the time for this action and in the sense of the mental capacities required for democratic judgment. The participatory citizen must also be able to reflect on his or her interests in a

proval and she raises children to cultivate good mores. His overall prescriptions are complex, so that while the message that citizen participation, focused on the town meeting, is often taken to be his central message, this is less clear upon reviewing the entire text. (ibid., 63-65, 262, 275, 560).

92. For an exploration of the complex relationship between communal and individual understandings of the common good, softly suggesting that democratic renewal requires the cultivation of "habits of the heart" which are not merely those of private citizens, see Robert N. Bellah et al., *Habits of the Heart: Individualism and Commitment in American Life*, Upd Sub (University of California Press, 1996). Or, review Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community*, 1st ed. (Touchstone Books by Simon & Schuster, 2001)., suggesting that trust is only possible in democracies when there is robust participation in voluntary associations.

way that goes beyond expressing preferences, and this habitual reflection may engage religious or philosophical doctrines.⁹³

The secondary activities of these citizens, or perhaps the assumptions about who they are, relate closely to the Habermasian arguments about the bourgeois public sphere citizen, although perhaps less restricted by race or gender. The participatory citizen is still assumed to be a legal member of the political community, with the free time and resources to increase his or her involvement in politics. While the importance of political justification through the use of public reason is not central, each participatory theorist spends a great deal of time on education, noting that participatory politics hinges on having politically literate citizens who can exercise judgment and speak their opinion. In this, they take the ancient ideal of the noble citizen and seek to apply it broadly, just as the progressive thinkers did in the 1920s.

Indeed, we might take a cue from Habermas, who suggests that it is the very non public interest in advancing oneself economically and socially that moves individuals into the public sphere; lacking this, what would induce a mass citizen to participate politically, inside or outside of the formal institutions of politics? A different way to put this is to suggest that the Habermasian solution to Aristotle's problem is a tenuous one, which

93. J. Mansbridge, "Does Participation Make Better Citizens?," *The Good Society* 5, no. 2 (1995): 1–7. argues theoretically that participation makes us better citizens as our activities refine and clarify our understandings of the world and our relationship to it, so it is possible that this problem is partially ameliorated once participation happens.

has not yet been shown to function in the contemporary world of mass democracy. Historically, the labor movement has provided a vehicle for organizing and advancing the interests of the average worker in the political space, providing for the possibility that political activity came with the potential for efficacy. While labor unions are not as dead as some quarters might like us to believe, the clout they once had with government institutions has been eroded over the past thirty years, and trends towards eliminating collective bargaining rights for even public employees, expanding “right-to-work” states and of course bypassing unions altogether by offshoring production continue. Within the aegis of a Labor Union, workers were validated as political subjects whose status as workers meant they were equal within the political space, just as in the Habermasian space. However, this linkage also connected worth and political membership with waged labor and productivity, and thus linked unemployment, or work that could not be unionized, like domestic work, to the non-political space of the household. Without the creation of networks like the labor union, participatory democracy cannot sustain itself, given the contradictions between advancing economic or other interests and building a status free public sphere.

This lack is echoed in the focus of participatory democracy on taking part in already existing government institutions, although it is often suggested that participation will transform society as a whole- and some theorists offer alternative spaces, such as civil society or even the workplace. The participatory citizen acts through established political institutions, even if prompted by civil society experiences, and thus participation

takes the form of voting, advocating for candidates or policies, attending town meetings, volunteering for elections or civic events and decision-making, either directly or through representatives. Note that this model is not the same as representative or elite democracy; the decisions of citizens must have efficacy for this system to work. Still, the importance of citizen-driven initiatives and public spheres (like Labor Unions), which balance the fragile tension between economic and political life is lacking from contemporary democracy, limiting its efficacy.

2.4 Does Deliberation provide a Transformative Alternative?

Although critical of participatory democracy, its heir, deliberative democracy, borrows some of its worldview and goals. Deliberative democrats sought to set themselves apart from participatory types in the 1980s and 1990s. While deliberation divorces democratic theory somewhat from existing power hierarchies, it does not elucidate how to create robust spaces for democratic work, or address the problem of labor introduced by Aristotle. Their most common early critique centered around the feasibility of wide-scale participation at various levels of government, an argument that suggested that the earlier theories lacked a realistic understanding of the complexity of governance and also responding to the work of Habermas discussed above. In a sense, deliberative theorists question the attractiveness of participation at all levels or sites of governance, and instead argue for practices of democratic contestation that enhance citizen efficacy and build skills. They also question the assumption, carried over from civic republican

sources, that humans desire to act politically and will do so once barriers to this action, such as lack of education or leisure time, are removed.⁹⁴ In this view, quantity of participation should be seen as less important than the quality of the participation, and it should be focused where citizens can recognize a high degree of efficacy. Deliberative institutions should contest the state, but not expect to radically transform either society or citizen through their operation.⁹⁵ Instead, they encourage the pluralistic sites of contestation appropriate for contemporary mass democracies.⁹⁶ Along with interest in procedures that manage pluralism, deliberative democratic theory is motivated in part by concerns that participatory norms fail to address the power and resource inequality of actual citizens, particularly the place of marginalized groups to contest the coercion of the majority.⁹⁷

94. Mark E. Warren, "What Should We Expect from More Democracy?: Radically Democratic Responses to Politics," *Political Theory* 24, no. 2 (May 1, 1996): 241–270.

95. See James Bohman, *Public Deliberation: Pluralism, Complexity, and Democracy* (The MIT Press, 2000), where he argues that the idealized goals of participatory democrats emerging from the Frankfurt School is thus much more harmful than the modest goals of deliberation.

96. Seyla Benhabib, "The Democratic Moment and Problem of Difference" in Seyla Benhabib, *Democracy and Difference* (Princeton University Press, 1996,) 3-18.

97. Jane Mansbridge "Using Power/Fighting Power: The Polity" in Seyla Benhabib, *Democracy and Difference* (Princeton University Press, 1996), 46-66. questions whether participatory norms significantly address the power and resource inequality of actual citizens, particularly the place of marginalized groups to contest the coercion of the majority.

John Rawls turn from defending a single theory of justice to discussing public reason and pluralism⁹⁸ might rightfully be seen as the start of the turn to deliberative theorizing, echoed by the work on deliberation in Congress,⁹⁹ especially as opposed to in a constitutional court in a society with fundamental disagreements.¹⁰⁰ Even more commonly, deliberative democrats focus on popular adoptions of the idea, in "associations where affairs are governed by public deliberation of its members."¹⁰¹ Some explore this through experiments in direct consultation of the public through innovative processes like citizen juries or deliberative polling.¹⁰² The values of deliberative democracy center around "responsiveness", ultimately defined as "a form of government in which free and equal citizens (and their representatives), justify decisions in a process in which they give one another reasons that are mutually acceptable and generally accessible, with the aim of

98. John Rawls, *Political Liberalism* (Columbia University Press, 1995). For a consideration of public reason, if not for the text as a whole, see also, Rawls, *The Law of Peoples: With "The Idea of Public Reason Revisited"*, 1st ed. (Harvard University Press, 2001).

99. J. Bessette, "Deliberative Democracy: The Majority Principle in Republican Government," *How Democratic Is the Constitution* 102 (1980): 109–11; *The Mild Voice of Reason: Deliberative Democracy and American National Government* (University of Chicago Press, 1997).

100. Jeremy Waldron, *Law and Disagreement*, 1999.

101. Joshua Cohen, "Deliberation and Democratic Legitimacy" in James Bohman and William Rehg, *Deliberative Democracy* (MIT Press, 1997), 67.

102. James S Fishkin and Robert C Luskin, "Experimenting with a Democratic Ideal: Deliberative Polling and Public Opinion," *Acta Politica* 40, no. 3 (2005): 284–298, doi:10.1057/palgrave.ap.5500121; FISHKIN, *When the People Speak: Deliberative Democracy and Public Consultation*, Har/DVD (Oxford University Press, USA, 2009); Fishkin and Peter Laslett, *Debating Deliberative Democracy*, 2003.

reaching conclusions that are binding in the present on all citizens but open to challenge in the future."¹⁰³ Thus it is at once a more and less demanding practice of democracy that participatory ideals are.

To a great extent, deliberation is an epistemic ideal, which helps bring a polity closer to a truer or better answer, even if individuals themselves would be incapable of the same reasoning process.¹⁰⁴ This process may expose shared moral commitments underlying our deep disagreements¹⁰⁵ and also develop the capacity of the citizen to take an impartial view of questions.¹⁰⁶ This ideal can also be pursued in the legislature,¹⁰⁷ between institutions,¹⁰⁸ or within one's own mind.¹⁰⁹ What holds these approaches together,

103. Amy Gutmann and Dennis Frank Thompson, *Democracy and Disagreement* (Harvard University Press, 1996), 11; Gutmann and Thompson, *Why Deliberative Democracy?* (Princeton University Press, 2004).

104. Robert B. Talisse, "Does Public Ignorance Defeat Deliberative Democracy?," *Critical Review* 16, no. 4 (2004): 455–463, doi:10.1080/08913810408443619.

105. Rawls, *Political Liberalism*.

106. Carlos Santiago Nino, *The Constitution of Deliberative Democracy* (Yale University Press, 1998).

107. "A central problem, therefore, in the design of democratic regimes is how to ensure that the legislature engages in deliberative ways of lawmaking, not to the exclusion of other modes of lawmaking, but at least on those occasions when the public interest is at stake." Stephen L. Elkin "" in Stephen L. Elkin and Karol Edward Sołtan, *Citizen Competence and Democratic Institutions*, 1999, 388.

108. Jeffrey K. TULLIS, *Deliberating Between INSTITUTIONS IN* James S. Fishkin and Peter Laslett, *Debating Deliberative Democracy*, 2003, 200-211.

besides the obvious ideal of deliberation, is attentiveness to process as key to democratic life.

The deliberative citizen is unsurprisingly like the Bourgeois Public Sphere citizen, although these theorists are much more explicitly concerned with how to integrate difference and expose or question structural inequalities of power. While the participatory democrats called for participation by all at every level, deliberative democrats have a more modest requirement that some citizens deliberate sometimes, and only through associations or institutions which are responsive to this deliberation and also able to call the government to account. We still might wonder if it is easier for cultural and economic elites to occupy sites of deliberation than it is for the majority of citizens; or, alternatively, we might ask what incentive there is for deliberating (given the apparently unattractiveness of the Civic Republican ideal of placing the state above oneself). The deliberative citizen needs deliberation skills, and although the different theorists disagree as to what degree deliberation itself teaches these skills, there is an assumption that deliberators will be generally educated. Indeed, one of the problematic aspects of a democratic theory based in speech acts is the difficulty in fending off claims that language itself is inscribed with historical dominations and reflects the hegemony of certain classes, races and gen-

109. Robert E. Goodin, *Innovating Democracy: Democratic Theory and Practice After the Deliberative Turn* (Oxford University Press, 2008).

ders. It is assumed that the deliberator speaks fluent English, or whatever majority language of the country in question, and recognizes “reason” when he or she sees it. Without adopting a full-blown critique of language or reason, it is still easy to see how actual citizens might differ greatly in their abilities to express their ideas in the mode of public reason.

Typical critiques of the deliberative turn often take up these issues of exclusion or buried structural inequalities, which are paralleled by the work of critical legal studies theorists who argue that the long history of jurisprudence covers over the acting of power and privilege through law and its assumptions.¹¹⁰ It also often criticized for lacking attunement to the desires of actual citizens, despite its claims to democratic ideals¹¹¹ or even of conflating democratic ideals with those of justice.¹¹² We also might wonder if there are non-deliberative pieces of politics which are part of any democratic regime, deliberative or not, particularly political education, organizing, mobilizing, demonstrating, making statements, debating, bargaining, lobbying, campaigning, voting, corruption, scut work,

110. See Jodi Dean, *Publicity's Secret: How Technoculture Capitalizes on Democracy* (Cornell University Press, 2002) for claims that the drive for publicity and the model of rational deliberation is itself a derivative of capitalist technoculture centered on spectacle.

111. Lynn M. Sanders, “Against Deliberation,” *Political Theory* 25, no. 3 (June 1, 1997): 347–376.

112. Peter Berkowitz, “The Demagoguery of Democratic Theory,” *Critical Review* 15, no. 1–2 (2003): 123–145, doi:10.1080/08913810308443576.

and ruling.¹¹³ This list is descriptive rather than normative, as evidenced by the mention of corruption, but points to the very real existence of "scut work"; that is, the boring and seemingly non-political tasks required for all human activity, such as reserving the room in which to deliberate.

Just as with participatory and Habermasian citizenship, deliberative democracy cannot give an account for how deliberation as an epistemological practice or legitimization device can function without considering the importance of economic life, and in particular the life of the workplace. The first reason why this consideration ought to be important for deliberative democrats is the central importance of *who* citizens are and what their capabilities may be for deliberation. Most deliberators do not adopt Habermas' claims about the bracketability of identity, even if these were convincing. In particular, some competencies may be made particularly unlikely by the very systems they are meant to engage¹¹⁴.

Furthermore, deliberation must take place in a space, both in the sense that it needs a physical or virtual locale where individuals can gather (a public, if you will) and this space must be meaningfully connected to governing bodies. It thus matters if the

113. Michael Walzer, "Deliberation and What Else?" in Stephen Macedo, *Deliberative Politics: Essays on Democracy and Disagreement* (Oxford University Press, 1999), 58-69.

114. James A Gardner, "Shut up and Vote: A Critique of Deliberative Democracy and the Life of Talk," *Tennessee Law Review* 63 (1996 1995): 421. He argued early on that deliberation is likely to produce obstructionist and self-centered citizens, as well as tyrannical majorities.

public spaces available are owned or controlled by commercial or government interests, or limited by judicial reframing of free speech rights, as discussed in the final chapter. However, deliberation is not impossible, and it does occur under certain circumstances; the key is to expand the space for deliberation in spaces where it makes sense, while avoiding eviscerating other methods of political activity, particularly dissent, which is most vulnerable to competition from consensus style decision making.

2.5 Anti-Liberalism and the place of Emotions in Agonistic Democracy

For some, this consensus is understood as impossible or rather not a goal at all, and they argue that the deliberative turn represents a milquetoast version of liberalism which lacks the fiber to produce either freedom or politics as a normative ideal.¹¹⁵ Described by some as “radical democracy,” I organize these oppositional approaches “agonistic” because the term radical positions itself automatically outside, or perhaps to the left, of the others, without substantiating this claim. Agonism, as foretold by its roots in the Greek word for struggle, focuses on aesthetic, affective and practical conflicts as sources for democratic renewal and freedom. In particular, agonistic democrats attempt to

115. Chantal Mouffe, *The Democratic Paradox* (Verso, 2000). She argues for “the incapacity of deliberative democracy to provide a convincing refutation of [Carl] Schmitt’s critique of liberal pluralism,” *Ibid.*, 49.

resist what they see as totalizing impulse of rational discourse and consensus making¹¹⁶. There is also a strong influence of critical theory in this body of work, linking the anti-universalist orientation to analysis of culture and society, and to the task of developing ideas that are both explanatory and normative.¹¹⁷

In terms of democratic theory, the approach of agnostic democrats often starts from exposing or undermining the central premises of both deliberative democratic theory and the same theories deliberation sets itself against, such as participatory or representative government, and constitutionalism itself. Much of their critiques are intelligent, and echo the concerns raised above about the potential of deliberation to cultivate the sort of citizenship we need (particularly given the lack of space for deliberation). For a political theory of work, agonistic democrats are allies of a sort, with the caveat that beyond critiques, we also need to figure out what sort of institutions allows citizens to flourish, even if these institutions are understood as flexible and creative.

The most prominent approach to agonistic pluralism is that of Chantal Mouffe, developed in part through her work with Ernesto Laclau, but more directly in her solo

116. In this, they mirror what might be casually termed a postmodern orientation in continental and post-Marxist philosophy, particularly thinking that takes its bearings from Heidegger, Nietzsche, Foucault, Derrida and Deleuze and reads back through these recent thinkers to figures like Kant and Hegel.

117. Critical theory, in a strict sense, often refers to students and teachers of the Frankfurt School, most particularly Max Horkheimer, Theodor Adorno, Herbert Marcuse, Walter Benjamin- and their student Jürgen Habermas, and his student, (current director of the *Institut für Sozialforschung*) Axel Honneth. However, it also shares much with other strands of political theory with less directly German lineages, from the Critical Legal Studies movement of the 1990's in law programs, to much feminist theory, , to some varieties of post-colonial or race thinking, and into the type of neo-Foucauldian approach taken by Wendy Brown.

efforts.¹¹⁸ What is important is that they insist that the formation of "antagonism", which is unpredictable and always socially concrete, occurs when identity is threatened.¹¹⁹ These social antagonisms can be resolved progressively or not, and they ask leftists to link up these concrete struggles in a "war of position" and coalition building.¹²⁰ Agonism is understood as inherent to a world of class conflict and struggles over what concepts will form our common political discourse.

118. Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics*, 2nd ed. (Verso, 2001). This text contests the political primacy of class consciousness and instead advocating a practice of hegemony generated from the work of Antonio Gramsci. While the practical import of their argument is that a progressive alliance of various groups is made possible through the construction of shared signifiers, the technical arguments are highly complex and deeply housed in the theories of Heidegger and Lacan, the exploration of which is not useful for my project.

119. For example, the disruption of Tsarist peasants as Russia became capitalist or workers when hours are extended during industrialization create friction and contestation.

120. Laclau and Mouffe, *Hegemony and Socialist Strategy*, 23. One might see this as the same task that feminist theorists of intersectionality, the linked and complex relationship between different oppressions, assume when they advocate coalition building. For example: Jill M. Bystydziński and Steven P. Schacht, *Forging Radical Alliances Across Difference: Coalition Politics for the New Millennium* (Rowman & Littlefield, 2001); Nella Van Dyke and Holly J. McCammon, *Strategic Alliances: Coalition Building and Social Movements* (U of Minnesota Press, 2010); Thomas Wolff et al., *Coalition Building: One Path to Empowered Communities* (AHEC/Community Partners, 1992). For colitiion building across racial divides, try Taunya Lovell Banks, "Both Edges of the Margin: Blacks and Asians in Mississippi Masala, Barriers to Coalition Building," *Asian Law Journal* 5 (1998): 7; for class, Fred Rose, *Coalitions Across the Class Divide: Lessons from the Labor, Peace, and Environmental Movements* (Cornell University Press, 2000); gender, Janet Conway, "Transnational Feminisms Building Anti-Globalization Solidarities," *Globalizations* 9, no. 3 (2012): 379–393, doi:10.1080/14747731.2012.680731, and global divides, see Rodríguez Garavito, "Nike's Law: The Anti-Sweatshop Movement, Transnational Corporations and the Struggle over Labor Rights in the Americans in Boaventura de Sousa Santos and César A. Rodríguez Garavito, eds., *Law and Globalization from Below: Towards a Cosmopolitan Legality* (Cambridge University Press, 2005).

Agonistic democrats also apply this sort of thinking directly to democracy, as in the later work of Mouffe.¹²¹ Deliberative democracy is overly focused on the twin normative goals of rationality and democratic legitimacy - and ultimately fails, and must by definition fail in "circumscribing a domain that would not be subject to the pluralism of values and where a consensus without exclusion could be reached" given the messy boundaries between public and private, or substantive and procedural issues.¹²² We cannot isolate a special mode of rational discourse from the pluralistic world of power relations; emotions and the wide range of alternative practices of politics.¹²³ Her own alternative, which she calls "agonistic pluralism," takes from Carl Schmitt an orientation towards a fundamental "us/them" distinction operative within the political. Instead of an enemy to be destroyed or eliminated, "them" in this theory is to be seen as a worthy adversary, and the task of democratic theory is "not to eliminate passions from the sphere of the public...but to mobilize them towards democratic designs."¹²⁴ Thus democracy becomes a sort of contest.

121. Chantal Mouffe, *The Return of the Political* (Verso, 2005). She sees Habermas as overly committed to an essentialist and universalist understanding of reason, which is inappropriate for the radically pluralistic social world in which we live, which she argues must be approached through a pluralism that is open to difference and contestation.

122. Mouffe, *Democratic Paradox*, 2000, 91.

123. Mouffe's concern is that the focus on legitimation and rationality misses the point; "what is really at stake in the allegiance to democratic institutions is the constitution of an ensemble of practices that make possible the creation of democratic citizens" (Ibid., 95).

124 Ibid., 101.

William Connolly's agonism, which he calls "deep pluralism" is situated in a particular historical context of late modernity, and emerges from a consideration of the fundamental uncertainty and flux of contemporary life, which is characterized as a constant state of becoming. For Connolly, pluralism requires an openness and "fidelity to the world" that is risky given the high probability that others will not respond with the same openness. It is agonistic because each person has a duty to question his own worldview and test it against the worldview of others, a practice that builds solidarity despite the precarity of existence.¹²⁵ Connolly spends a great deal of time on the metaphysical and ontological implications of a politics of becoming, but his contribution to agonistic theory is the advocacy of an ethos of engagement that is open to contingency and chance.

Both Connolly and Mouffe are interested in the relationship of emotions to the public sphere (and or deliberation), which has received treatment from a variety of venues; in a way, it even forms the basis of conservative critiques of democratic social spaces.¹²⁶ While much deliberative democracy takes the lead of Habermas and excludes emo-

125. William E. Connolly, *Pluralism* (Duke University Press, 2005), 10.

126. The concern about emotion and connection is not new, and forms the basis of Michael Walzer's attempt to recuperate liberalism, *Politics and Passion: Toward a More Egalitarian Liberalism* (Yale University Press, 2005). Some efforts have been made to widen the concept of the public sphere to include emotion, including through the medium of talk shows Peter Lunt and Paul Stenner, "The Jerry Springer Show as an Emotional Public Sphere," *Media, Culture & Society* 27, no. 1 (January 1, 2005): 59–81, doi:10.1177/0163443705049058; church and religious moods Birgit Meyer, "'Praise the Lord': Popular Cinema and Pentecostalite Style in Ghana's New Public Sphere," *American Ethnologist* 31, no. 1 (February 1, 2004): 92–110, doi:10.1525/ae.2004.31.1.92. and hip hop Gwendolyn D. Pough, *Check It While I Wreck It: Black Womanhood, Hip-hop Culture, and the Public Sphere* (UPNE, 2004).

tions and rhetoric because of their origins in (and proper location) private life,¹²⁷ not all deliberative thinkers are as strict. The role of affect and sentiment is, however, curtailed in most public sphere theory.¹²⁸ The connection between morality and emotion is not seen as central, and emotions themselves are subordinate to reason.

Although she is critical of the use of emotions in politics, Hannah Arendt has also inspired a variety of agonistic democrats, including William Connolly as discussed above, as well as Bonnie Honig and Jacques Rancière; each of these theorists might disagree with their placement in either the Arendtian or agonistic camp, although many refer to their thoughts as a variant on pluralism. Bonnie Honig has labeled herself an agonist openly, positioning herself against theories that close themselves off from future possibilities of contestability. Honig argues that agonism is required because liberal categories cannot contain the multiplicity of identities subsumed under the idea of, say, ‘citizen.’¹²⁹ Rancière's agonism is more strategic than citizenship affirming, because he understands the world as a battle between what he calls *police*, the repressive systems which order the world, and *politics*, which is when the excluded “the part who has no part” insert them-

127. Emotions are only properly public insofar as they "are intertwined with obligations that can be rationally redeemed." (Habermas, *Between Facts and Norms*, 34).

128. We might call it "auxiliary", because it primarily leads us to moral conflict, aids us in vividly expressing our position and may help us understand the positions of others. Nino, *The Constitution of Deliberative Democracy*.

129. Agonistic contestation allows for the renovation of these categories without the wholesale destruction of existing systems, and also deepens our confrontations with our own deeply held convictions, which may not line up perfectly with the world around us. Bonnie Honig, *Political Theory and the Displacement of Politics* (Cornell University Press, 1993).

selves into the political order.¹³⁰ Thus the aesthetic question of what is visible, or what it is acceptable to show or see in public, is key. While his broader philosophy has implications for art and pedagogy, his agonism is relatively straightforward.¹³¹ The agonism of politics is the fight to have one's noises heard as speech.

The distinction between an agonistic politics emerging from an Arendtian tradition- in which we might place the theorists from the last few paragraphs, and that from Schmitt (Mouffe, Connolly) is that the former is premised on the fundamentally world sharing possibilities of politics, while the later sees politics as grounded in constitutive exclusions. Both versions of agonistic democracy suggest that the terms and space in which deliberation occurs are themselves socially constituted; for Mouffe, the task is to take up this constitution on behalf of a united struggle of the oppressed. For the Arendtians, it is to build this through the network of storytellers practicing an ethic of openness.

The agnostic citizen can theoretically be anyone, given that most of the thinkers in this area are explicitly concerned with pursuing equality in a fuller sense. This populist persuasion is very strong in Connolly and Mouffe. Of course, we still might ask who is likely to be best equipped with the sort of skills one needs for agonism, which can occur

130. Jacques Ranciere, *Disagreement: Politics And Philosophy* (Univ of Minnesota Pr, 1998).

131. Although he does contest the Arendtian association of the good citizen with the citizen who can speak, as Ranciere sees the act of delineating speech from animal noises as fundamentally political

at both the symbolic level of art and the political world of electoral politics. Agonists have been accused both of rejecting utterly current political arrangements and capitulating too fully to them- is agonism merely partisanship by another name? Another way to put this is to ask if there is a *where* of agonistic politics, or if it occurs merely on the individual level, or via the aesthetic and symbolic struggle for hegemony. Alternately, what would the institutions of agonistic pluralism look like?¹³²

In general, the agonistic democrats are far more sensitive to the problematics of “who” fits into politics, while still struggling to elucidate where politics occurs and how this place is created, nurtured and developed. Without a thick concept of a public space, agonism does risk sounding a lot more like individualistic partisanship than its proponents would ever wish. Policies and institutions sound like the sort of brake on innovation, creativity and contest that agonists might reject, but they are required in order to differentiate these ideas from Anarchism. Indeed, it is likely that most agonists are not hesitant about the need for institutional forms, but rather about the project of specifying them beforehand, seeing this as fundamentally undemocratic.

132. Edward C. Wingenbach, *Institutionalizing Agonistic Democracy: Post-Foundationalism and Political Liberalism* (Ashgate Publishing, Ltd., 2011). He argues, to his own surprise, that they would essentially resemble those of liberal pluralism, with attentiveness to contingency and a commitment to revisability of any obtained decision. Such an agonism is prevented from descent into chaos and antagonism by starting from the existing liberal norms and public culture, but also seeks to move beyond. Wingenbach’s ideas are highly stimulating, and my own work is situated as an extension of his project. However, along with his institutional question, Wingenbach should more fully address how the competencies needed for this institutionalized agonism can be developed, and what they are. I’ll return to Wingenbach in the finale.

The problem, then, is to develop the focus on popular control of public spaces as explored in participatory democracy along with the openness to difference and democratic contestation epitomized by Agonism. This problem needs to include considerations of institutional design, even if by this term we mean a much broader and more open process of political creation than the model suggested by the term. The theorist cannot write a blueprint for the final look or form of these institutions, but can provide arguments for what sort of policies would help support the efforts of individuals to make these institutions themselves. I try to do this in chapter seven, but in general am an immanent critic of Agonism.

2.6 The Who and Where of Public Spheres

Each of these three central approaches to contemporary democratic theory are either indebted to or in response to the Habermasian public sphere citizen, and they all follow, to a certain extent, this citizen's orientation as an educated speaking, universalized white male subject who acts in space designated by the state for political action, or without a specified origin. This is an unrealistic, and undesirable standard for a pluralized culture. The problems with this from a position of intersectional experiences of race, gender and class have been touched on and are to a certain extent addressed by the variations offered by participatory, deliberative and agonistic theories of democracy, all of which seek to think about and respond to difference. However, there is also an implied class, or even more clearly professional bias contained in this ideas, a bias which infects not only the idea of who is a good citizen, but also what the good citizen does and where he or she

will do it. Just as it is not realistic to ask that citizens conform to the standard of noble elites, it is also unrealistic to expect that their work experiences will match the early industrial figure of the white-collar worker. Most people, even those in what would be considered white-collar jobs or middle management, work in ways and contexts radically different from the language oriented, secure, and community bound citizen desired by democratic theorists. The next chapter will explore the tensions in the worker, seeking to see what skills *are* developed by the contemporary experience of work and how they fit into these ideas of citizenship. We can also find resources in Habermas' own concerns about the relationships of markets and citizens.

2.7 Adapting the Bourgeois Public Sphere to Mass Publics

Habermas himself is *not* committed to the Public Sphere citizen as a direct model for our contemporary life; indeed, his *Structural Transformation* is expressly an exploration of the decline of that moment of citizenship. Habermas himself is clear that the bourgeois public sphere is an idealized concept that fails to live up to its promise as a check on state power, and eventually succumbs in the rise of class struggle and the welfare state. This concern is echoed in much of the critical literature on Habermas.¹³³ Contemporary

133. Some argue that the public sphere concept is itself built on constitutive exclusions of gender: Joan B. Landes, *Women and the Public Sphere in the Age of the French Revolution*, 1988; Mary P. Ryan, "Women's Politics in Nineteenth-Century America" in Craig Calhoun, *Habermas and the Public Sphere* (MIT Press, 1992), 259-288. For a consideration of class, see Geoff Eley in the same volume, 289-339; for sexual orientation and gender: Lauren Gail Berlant, *The Queen of America Goes to Washington City: Es-*

theorists who work in the vein of Habermasian public sphere attempt to translate his description of the bourgeois public sphere without preserving the accent on exclusion. Nancy Fraser thinks about public spheres as plural and not always liberal, and argues that the “bracketing” of all social markers is impossible, as rewards for certain subject positions are built into discourse.¹³⁴ This productive vein of public sphere research, which is often focused on subaltern publics, rejects the idea that within discourse status can be ignored. However, what is often overlooked in this research is the Habermasian claim, referenced above, that it is the development of certain skills and capabilities attached to an emerging way of life that allows the participants of his ideal public sphere to enter the discourse. Perversely, it is these shared capabilities and sensibilities that, in theory, allow the bourgeois public sphere to function in an ideal speech situation. This makes the task of translating, or creating, the contemporary public sphere even more problematic; even if the access barriers are removed and the rules of discourse are adjusted to allow as much downplaying of status as possible, the problematic imbrications of identity and political action remains.

says on Sex and Citizenship (Duke University Press, 1997); Eric O. Clarke, *Virtuous Vice: Homoeroticism and the Public Sphere* (Duke University Press, 2000).. For most, these exclusions do not preclude the adaptation of Habermas for contemporary, mass democracy, holding in mind “that the relationship between publicity and status is more complex than Habermas intimates, that declaring a deliberative arena to be a space where extant status distinctions are bracketed and neutralized is not sufficient to make it so.

134. Fraser, in Calhoun *Habermas and the Public Sphere*, 199.

This is another way of asking questions about how individuals become politicized. In the classic Habermasian story, individuals join together for social and competitive reasons, growing in power as they deepen their positions through argument. The public sphere is not political, in a formal sense, but its discussions are political in that they transform those who participate in them. And these discussions relate to formal political matters not because discourse is inherently political, but because of the relative tension between the development of trade and business and the state. That underlying tension provides some of the oomph which Habermas is likely to attribute to the publicity itself.

Public sphere theorists should thus pay more attention to the creation of a public sphere type space and the accompanying transformations in identity and subject position, rather than debating the mechanisms for deliberation within any particular public sphere. It is unlikely that the type of independence granted by estate ownership available to the early bourgeois is possible for most of us. Instead, we must abstract the *functional* importance of the bourgeois subject position to understand how public spheres might work today. Property and family are valuable because they affords its holders self-esteem, skills for citizenship and an interest in public affairs. How can we, holding in mind the goal of creating exclusive spaces, recreate these capabilities in individuals? Alternatively, what kind of worker works to build the public sphere? I will return to these questions explicitly in the final chapter, but first attempt to get on the table the challenges to finding this builder in the contemporary working world.

CHAPTER THREE: HOW THE CONDITIONS OF WORK BLOCK US FROM BUILDING A PUBLIC SPHERE

3.1 Introduction: Superfluous life and its relation to Work

If what we need are an understanding of how the work of politics, which I've explored in the last chapter through the notion of public sphere building, fits into our broader world, we should understand the parameters under which most people labor, and what that means for them politically. This will help us connect the question of the last chapter (what political work is needed for democratic citizenship), to the question of how hierarchies within work, or distinctions between work and labor, matter for our capacities as citizens. If work is consistently degraded such that it does not provide the status, skills or social and legal standing to allow citizens to engage in the democratic work of building the public sphere, then we are in trouble.

Aristotle's problem is thus twisted such that rather than many citizens benefiting from the labor of some slaves, many "slaves" labor without creating a public sphere by their. A different way to pit this is to see the growth of superfluous life, where the paucity of social and economic rights is linked to the erosion of political and civil rights, such that those who are status citizens lack the full benefits of citizenship, or access them with difficulty or stigma. The concept of superflousness comes from Hannah Arendt, who uses the idea to discuss the process by which refugees and victims of genocide are transformed from members of a political community into raw human matter that can be eliminated with little punishment. This process is one of turning persons into *bios*, or bare life, and

Arendt connects it both to the process the Nazi Regime undertakes with its Jewish and other suspect populations and with the status of refugees. The concept of superflousness comes in the midst of a critique of human rights, which for Arendt are meaningless at a global level because they are not guaranteed by any political power.¹³⁵

While Arendt is thinking through the problem of human rights guaranteed at the global level, we can extend her analysis and legal, status citizenship in relation to a nation-state is equitable with “membership in a political community.” Arendt herself is aware that the guarantee of rights without a nation-state is not proof against genocide, otherwise the German Jewish population would not have been systemically deprive of their political rights and then humanity. Arendt does seem to suggest that political and civil rights, or voice, will be enough to prevent the slow degradation of persons into bare life. However, she is well aware, in her discussion of the importance of imperialism, capitalism and racism, that legal citizenship does not guarantee the “voice” that is so important to her understanding of political agency.

In the United States, having a “voice” in the political space is intimately connected to producerist ideology that measures worth in relation to what individuals make. As political and civil rights democratize, the economic world retains privileges of gender, class, race and nationalities. One of the carriers of this privilege is the coding of some work as unproductive or meaningless, undeserving. The intimate connection between

135. See Section 6.2 for a complete exploration of Arendt’s concept of superfluous life.

work and desert has a long history, although it is probably intimately connected to the end of chattel slavery after the civil war, where anxiety over the dissolution of a caste system that distinguished even northern poor industrial workers from black slaves in the South enhanced the importance of doing the right work.¹³⁶ The proliferation of sharecropping as system of labor organization continued to enhance these distinctions, just as Jim Crow organized consumption and labor as well as social relations.¹³⁷ Similarly, the contrast between first and second wave feminism illustrates this point; it was not sufficient to gain formal political rights for women, but also to gain economic power in the workplace. This shift is often defended as providing the financial support necessary for women to retain their autonomy, particularly from husbands, but it also is linked to broader political power. The link between employment and political participation is empirically strong, but this empirical relationship has been interpreted as resulting primarily from effects within the workplace, rather than a theoretical attachment of concepts of civic desert and worth with employment.¹³⁸

136. Shklar, *American Citizenship*, 44.

137. Comer Vann Woodward, *The Strange Career of Jim Crow* (Oxford University Press, 1955).

138. This is true for both men and women, and may in part explain the persistent gender gap in political participation. It is not merely working, however, but working in a position that requires some education and on the job training; this correlation holds while class is controlled for. We might be able to explain this gap through the idea of “civic volunteerism,” which links the types of work that men are still most likely to do with the processes and incentives that make participation likely. Sidney Verba, Kay Lehman Schlozman, and Henry Brady, *Voice and Equality: Civic Voluntarism in American Politics* (Harvard University Press, 1995), chs. 10-13. Thus, “not only that what happens at work makes a difference for participation but that what happens at work is the result of a several-stage interactive process involving selection into the workforce, into part- or full-time jobs, and into jobs requiring different amounts of training and education” Kay

The idea that producerist ideology is a key part of the American political landscape has been eclipsed by social theories of the importance of consumption¹³⁹. Consumerism is one of the more prominent bugaboos of democratic theory, as critics revive early 20th century screeds against its practitioners as passive.¹⁴⁰ Even if consumption became intimately linked with citizenship in the early 21st century, this was not without an intimate relationship with producerism. For example, consumer citizenship is highly linked with the advocacy of women and African Americans, who advanced such slogans as “Don’t shop where you can’t work” to protest employment discrimination.¹⁴¹ That acts of consumption became associated with driving economic growth and recovery since the New Deal still means that work and producing is important for political membership; if consumption is an act of citizenship, it is so because it provides economic growth so that

Lehman Schlozman, Nancy Burns, and Sidney Verba, “What Happened at Work Today?: A Multistage Model of Gender, Employment, and Political Participation,” *The Journal of Politics* 61, no. 01 (1999): 29–53, doi:10.2307/2647774, 30.

139. For an argument that 20th century intellectuals transformed our political culture through emphasizing consumption over production, epitomized in New Deal progressivism, see: Edward Gresser, *Freedom From Want: American Liberalism and the Global Economy* (Soft Skull Press, 2007). Her examination is most convincing when she shows how 19th century economics featured “a worldview that was not only profoundly producerist but also one in which both consumption and consumer were replete with pejorative connotations.” *Ibid.*, 13. The shift towards a demand driven economy and government policies to match is traced through the shift to Keynesian economic thought, and the democratic hopes of left-progressives.

140. Benjamin R. Barber, *Consumed: How Markets Corrupt Children, Infantilize Adults, and Swallow Citizens Whole*, Reprint (W. W. Norton & Company, 2008). Barber argues that markets are inimical to adult political life, such that we are unable to engage in the long-term thinking required for democratic citizenship. Barber’s book follows in a long line of critiques of how consumption in capitalism might eviscerate democratic or social life.

there is sufficient employment for citizen workers. Producerism is still a visible part of American ideology, and perhaps consumption is merely another version of its proliferation.

Understanding the transformation that the economy, and world, has and is experiencing is a large task, and beyond the scope of this project that seeks to understand this transformation through a narrow focus on how it has changed the world of work and labor. However, a review of the portion of the broader literature that discusses this transformation yields findings that cluster around the four main challenges I discuss in this chapter. This does not mean that these are the only challenges, or that categorizing them in this way is not without limitations, but the frequency with which synonyms and related ideas emerged from the literature suggests that these challenges might be central. Furthermore, these are all challenges that are potentially problematic for the co-constitutive citizenship I am advancing, so they are particularly useful to explore.

The challenges facing the superfluous today are different than those who faced waged laborers, who secured legal citizenship if not the just economic order they sought, and women, who failed in banning alcohol, but gained the political power needed to advance their claims to just compensation for work in the home. Indeed, there is still a great deal of unrecognized or unremunerated work, inside and outside of the home. However,

141. Ibid., 53

even the employed face challenges which make their political action difficult, particularly if the goal of political action is understood as occurring in an existing public sphere and consisting particularly of dialogue. This public sphere vision, as discussed in the last chapter, is particularly difficult to enact when its potential citizens. This chapter sketches the most central challenges to the advancement of the public sphere citizenship discussed in the last chapter: first, the precarity of work, which extends to the real deprivation that the unemployed or underemployed experience; second, the extension of paid labor responsibilities into the home, and corresponding lack of time and resources for creative work; third, the challenge of the depoliticization and privatization of work makes the connections between work and politics difficult to see. Finally, and closely related, the incompatibility of how we work with rich and supportive family life and the labor of the household, an issue that is central for men and women of all classes. Because these challenges occur in the economic sphere, they are not always recognized by advocates of public sphere citizenship, of any variety, particularly because the capacity they erode is that of creating a public space, rather than acting within it.

3.2 Challenge One: Precarity and Vulnerability

Waged work is inconsistent. Patterns of employment are more sporadic than at any time post industrial revolution. There is a growing body of research exploring the concept of “precarious labor;” that is, the idea that “no one, not even in the traditional occupations, can any longer expect a fixed pattern of employment in the course of their

lifetime,” and therefore experience pressure throughout life to anticipate and adapt.¹⁴² We might understand this as a turn to “free agency” for all workers, particularly young ones, who are taught to see mobility and adaptations as strengths.¹⁴³ As anyone who has attended any sort of career counseling knows, the average person changes jobs and careers seven times in their lifetime. This oft quoted fact is source less, given that the Bureau of Labor only tracks job changes, given the difficulty of establishing what constitutes a change in “career.”¹⁴⁴ A growing divide between “insiders” (those with standard contracts) and “outsiders” (those who provide flexible and contingent labor) is occurring throughout the manufacturing sector.¹⁴⁵ This is mirrored even in high status professions, such as academia, where tenured professors make up less and less of the labor force, replaced by contactless adjunct laborers who usually lack stability, benefits and academic

142. Andrew Ross, *Nice Work If You Can Get It: Life and Labor in Precarious Times* (NYU Press, 2009), 2.

143. Daniel H. Pink, *Free Agent Nation: How America's New Independent Workers Are Transforming the Way We Live* (Hachette Digital, Inc., 2001).

144. “NLS FAQs,” accessed November 21, 2012, <http://www.bls.gov/nls/nlsfaqs.htm#anch43>. Indeed, the Bureau of Labor Statistics has yet to complete an entire longitudinal survey on this question (and its data so far refers to Baby Boomers, and may not apply in the same way to younger populations), but from 18-44 the average boomer changes jobs 11 times. Bureau of Labor Statistics, “Number of Jobs Held, Labor Market Activity and Earnings Growth Among the Youngest Baby Boomers; Results from Longitudinal Survey” (US. Department of Labor, n.d.), <http://www.bls.gov/nls/nlsfaqs.htm#anch43>. These data refer to American workers, and probably severely undersamples migrant, undocumented and black market workers.

145. Arne L. Kalleberg, “Flexible Firms and Labor Market Segmentation Effects of Workplace Restructuring on Jobs and Workers,” *Work and Occupations* 30, no. 2 (May 1, 2003): 154–175, doi:10.1177/0730888403251683.

freedom.¹⁴⁶ Workers of many classes are without long-term guarantees of occupational or job stability.

Precarity also refers to the increased mobility of labor, both within nation states and worldwide. This is not a new trend, given that labor markets have been driving migration for hundreds of years, but the increased transnational nature of labor flexibility is striking. The centrality of labor market flexibility and migration is such that in geography and sociology a “mobilities turn” understands flux and migration as the central dynamic in contemporary life and society.¹⁴⁷ In a practical sense, the centrality of mobility is reflected in the actual numbers of people who move, temporarily or permanently, to meet the demands of the global labor market.¹⁴⁸ Immigrants in industrialized countries work in agriculture, food preparation, office/house cleaning, child care, landscaping and, increasingly, manufacturing sectors, and their vulnerability means that these industries can hold costs down by keeping wages and worker protections low. Migration flows often occur in “chains,” where family members or people from the same area attract others to move to

146. Derek Bok, *Universities in the Marketplace: The Commercialization of Higher Education* (Princeton University Press, 2004).

147. John Urry, *Mobilities* (Polity, 2007). Zygmunt Bauman, *Liquid Modernity* (John Wiley & Sons, 2000). conceives of this as “liquid modernity”, considering the software and internet related flows of information and identity have made the human condition “fluid”.

148. A study that combines statistical study of large data-sets with qualitative investigations into the life of immigrants and migrant workers in seven global cities, argues that it is migration that allows, and in a sense shapes, the international economy. Harald Bauder, *Labor Movement: How Migration Regulates Labor Markets: How Migration Regulates Labor Markets* (Oxford University Press, 2006).

the same place or industry, providing a network of support and connection to home.¹⁴⁹

There is also a cascade effect of migration, where middle class or skilled laborers in emerging economies, such as India or Brazil, travel to the United States or Europe to work, often in domestic settings, but then recruit care for their own families from poorer countries.

Migrants and immigrants, even within nation states, do not line up with the ideal of the public sphere citizen because insecurity and movement are in tension with the grounded and localized concept of a political space where identity is bracketed. For immigrants, identity and belonging (including legal status) may be a high bar to entry into a political space, or may indeed be the locus of their political action, as in the years of hard work by undocumented workers and their allies in the United States. For precarious workers who have legal citizenship, their precarity (and thus proximity to the social safety net) means that their relationship to local and state government may be fragile or short-lived. Furthermore, Habermas' identified that the unique feature of the bourgeois citizenship was that his economic interest led him to the political sphere, but also to look beyond it in a practice of publicity. The precarious worker may be led to politics for the same reason, but the goal will not be critique of power (which in the bourgeois moment enhanced the agency of up and comers), but instead the preservation of the corporations

149. Yevgeny N. Kuznetsov, *Diaspora Networks And the International Migration of Skills: How Countries Can Draw on Their Talent Abroad* (World Bank Publications, 2006).

and practices that provide jobs. Indeed, if workers change jobs excessively, they cannot even be expected to act out of preference for a particular industry, but instead with a universalized attachment to measuring politics as a calculus of jobs and economic growth. Or, in local politics, with attracting and maintaining industry, even when this industry is dirty, morally dubious or even harmful.¹⁵⁰

For Habermas, the bourgeois public sphere is built because the economic interest, as well as the cultural practices, of a class that is growing powerful demands it, and this public sphere is lost because the mass public's interests are instead served by the replacement of critique publicity with public opinion and social science. The situation of the precarious worker reflects this, even when we look at wealthy or upper class freelancers, reflecting the de-professionalism of many classical professions as well as the dominance of the short term contract model of employment. This group, who we might think of as entrepreneurs, or the creative class, includes some workers we do not think of as precarious, such as those working in the financial sector on Wall Street.¹⁵¹ These workers also have little incentive to invest, in a non-monetary sense, in the political system. The

150. States and local regions are locked in fierce competition to lure or retain big companies, although there is some signs that they may be resisting this trend. Jennifer L. Gilbert, "Selling the City Without Selling Out: New Legislation on Development Incentives Emphasizes Accountability," *Urban Lawyer* 27 (1995): 427. This competition results from the very real devastation that occurs when a key employer leaves or shuts down. See: Timothy J. Minchin, "'It Knocked This City to Its Knees': The Closure of Pillowtex Mills in Kannapolis, North Carolina and the Decline of the US Textile Industry," *Labor History* 50, no. 3 (2009): 287–311, doi:10.1080/00236560903020906.

151. Karen Ho, *Liquidated: An Ethnography of Wall Street* (Duke University Press Books, 2009).

fact that many industries, but particularly the financial services and other stock market related sectors, hedge their bets by donating to both major political parties in the United States is often analyzed as demonstrating the problems of equating money and speech in a democratic system.¹⁵² However, we could also understand it to show that the tension between the private interests of the individual and the communal good debated in the public sphere in the Habermasian idiom have dissolved, such that the interests of the precarious worker (not to mention the businesses they work for or would like to) are equated with the general goal of high-employment and expansion of the market. This combines with the naturalization of the market, such that politics are seen as an artificial imposition on its development, rather than constructing the social and material relations in which the market functions. In such a context, the interests of precarious workers are constructed as eliminating politics, rather than building a robust political space that supports critical discourse.

This disconnect is further amplified by the growth of unemployment and related jump in people drawing on short and long term social safety nets, such as unemployment benefits, aid payments or disability in the United States. While unemployment is more visible during downturns in the economy, it is a threat even in better economic times and

152. See Thomas Stratmann, "Can Special Interests Buy Congressional Votes? Evidence from Financial Services Legislation*," *Journal of Law and Economics* 45, no. 2 (2002): 345–373. Hint: yes. Proposals to counter this are anemic at best: Edward J. Kane, "Changing Incentives Facing Financial-services Regulators," *Journal of Financial Services Research* 2, no. 3 (1989): 265–274.

looser labor markets.¹⁵³ One in six workers in blue collar jobs were laid off in 2010, with around 24 qualified applicants for every opening. Despite some news reports that suggest that some of the unemployed were enjoying the slow pace or time for self-improvement, the common experience of unemployment is scarcity and fear.¹⁵⁴

Unemployment is difficult in a material sense, but also a social one. The tight association between blue-collar work and a successful mode of masculinity makes this superfluousness psychologically difficult for workers whose loss of work is equated with loss of status, identity and standing within the family and community.¹⁵⁵ Unemployment or bouts of poverty, even for young people, are highly correlated with health problems and alcoholism.¹⁵⁶ Even more alarmingly, men with job losses have shorter lifespans than

153. A longitudinal study of aging workers found 5.2 bouts of unemployment for the Baby Boomer cohort mentioned above, with the rates rising for those with high school education or less. “The NLSY79,” accessed November 21, 2012, <http://www.bls.gov/nls/nlsy79.htm>.

154. Unemployment and job loss has long been associated with mental health issues and suicide. Peter Bryan Warr, *Work, Unemployment, and Mental Health* (Clarendon Press, 1987). It is furthermore “scarring” in terms of lifelong earnings as well as emotional damage. Wiji Arulampalam, “Is Unemployment Really Scarring? Effects of Unemployment Experiences on Wages,” *The Economic Journal* 111, no. 475 (2001): 585–606, doi:10.1111/1468-0297.00664. There are advocates for mitigating this mental and material damage through programs aimed at those out of work thanks to the recent recession, such as: Lauren D. Appelbaum and Editor, *Reconnecting to Work: Policies to Mitigate Long-Term Unemployment and Its Consequences* (W.E. Upjohn Institute, 2012).

155. Luis Jimenez and Valerie Walkerdine, “‘Shameful Work’: A Psychosocial Approach to Father–son Relations, Young Male Unemployment and Femininity in an Ex-steel Community,” *Psychoanalysis, Culture & Society* 17, no. 3 (July 28, 2011): 278–295, doi:10.1057/pcs.2011.14.

156. Krysia N. Mossakowski, “Is the Duration of Poverty and Unemployment a Risk Factor for Heavy Drinking?,” *Social Science & Medicine* 67, no. 6 (September 2008): 947–955, doi:10.1016/j.socscimed.2008.05.019

those without.¹⁵⁷ As these same statistics do not fully apply to women, there must be more at work than the material stresses of losing a job. Either women are more easily able to meet their material needs in other ways, or they experience paid employment as less essential to their self-image, perhaps because of historical association of waged work with masculinity.¹⁵⁸ Unspoken assumptions that women who exit the labor market will care for their families may also exert extra pressure on men to find work outside the home.

The causes of this shift are complex, but the central dynamics that relate to the dimension of citizenship I'm discussed are the changes in international trade, capital markets and migration flows aided by the neo-liberal advances of the 1980's and 1990's. What is commonly termed "globalization" is, in the world of labor, another term for the growing precariousness, labor market segmentation, and migration that accompanies the

157. Daniel Sullivan and Till von Wachter, "Job Displacement and Mortality: An Analysis Using Administrative Data," *The Quarterly Journal of Economics* 124, no. 3 (August 1, 2009): 1265–1306, doi:10.1162/qjec.2009.124.3.1265.

158. This is true even though women and the young tend to be more vulnerable to layoffs and cut-backs. Sher Verick, *Who Is Hit Hardest During a Financial Crisis? The Vulnerability of Young Men and Women to Unemployment in an Economic Downturn*, SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, August 18, 2009), <http://papers.ssrn.com/abstract=1455521>. Both the higher incidence of primary child care responsibilities and social norms have meant that thus far women struggle less with job loss, particularly if they have a partner. Monica L. Forret, Sherry E. Sullivan, and Lisa A. Mainiero, "Gender Role Differences in Reactions to Unemployment: Exploring Psychological Mobility and Boundaryless Careers," *Journal of Organizational Behavior* 31, no. 5 (2010): 647–666, doi:10.1002/job.703. For single parents of any gender, unemployment has a much higher correlation with depression, suggesting that it is not merely social stigma and the availability of benefits that prevent harm from unemployment, but very real deprivation. Marybeth Mattingly, Kristin Smith, and Jessica Bean, "Unemployment in the Great Recession: Single Parents and Men Hit Hard," *The Carsey Institute at the Scholars' Repository* (August 31, 2011), <http://scholars.unh.edu/carsey/144>.

growth of finance markets, widespread privatization, surge of transnational corporations and IMF led reforms of global markets.¹⁵⁹ It also emerges from dynamics more internal to labor markets, such as the protests of the 1970's against conformity of the lifetime occupation model and calls for more worker control or democracy. These calls were reformulated in a rather perverse way, creating a more flexible and less hierarchical workplace with more potential for career change. Labor is still not as mobile as capital, particularly given the speed with which the latter can move between markets as foreign direct investment, the removal of which was a central cause for the East Asian Financial crises that gave the first indication that the globalized world was not without risk. Even physical manifestations of capital, such as factories, are more mobile than one might think, leaving entire towns vulnerable to the "outsourcing" that is such a strong political talking point. In the United States, the particular attachment of retirement healthcare and other benefits with full-time work provide particular incentives to use flexible, part-time or temporary labor, as do the lack of support for combining family and work life, which mean that many men and women seek this work so that they can manage their home responsibilities.

All of this precarity challenges the creation of public spheres because it reduces the likelihood that citizens will have the security and stability from which they can emerge to build the public sphere and protect their interests/contest the political. Without

159. Carole Thornley, Steve Jefferys, and Beatrice Appay, *Globalization and Precarious Forms of Production and Employment: Challenges for Workers and Unions* (Edward Elgar Publishing, 2010).

steady employment or roots in a particular community (or even nation-state), precarious workers are more likely to be distanced from their legal place of political membership, and thus not protected by the legal guarantees of citizenship. For workers who are legal citizens, the centrality of paid work means that its precarity, or absence for the unemployed, renders them also highly mobile and unattached. The close association of work with merit, reflected most clearly in popular debates around “entitlements,” means that the potential contributions of the unemployed or welfare recipient are suspect. Along with the very real stigma attached to temporary work,¹⁶⁰ unemployment,¹⁶¹ and welfare,¹⁶² come the material deprivations when separated from the labor market, the central method for gaining substance in a capitalist world. In a world of precarious labor, the democratic work of citizenship suffers.

3.3 The Particular Problem of Precarity for Marginalized Workers

This is even more true for those who are the least stable in precarious labor markets, as determined not from relative skills or education, but structural power dynamics

160. Anthony S. Boyce et al., “‘Temporary Worker, Permanent Loser?’ A Model of the Stigmatization of Temporary Workers,” *Journal of Management* 33, no. 1 (February 1, 2007): 5–29, doi:10.1177/0149206306296575.

161. Assar Lindbeck and Dennis J. Snower, *The Insider-Outsider Theory of Employment and Unemployment*, MIT Press Books (The MIT Press, 1989), <http://ideas.repec.org/b/mtp/titles/026262074x.html>.

162. Mary Clare Lennon, *Welfare, Work, and Well-Being* (Psychology Press, 2001).

and social relations. This relative power is not merely a matter of adding up one's potentially negative characteristics (woman, foreigner, college graduate, etc.), but rather each potential employee experiences his or her own worth as the complex interaction of identity, history, and location¹⁶³. For example, African American women were traditionally excluded both from jobs other women took up in the early 20th century, such as clerical work, and from the factory work that many of their male counterparts took up, and therefore were most likely to work in the service industry, particularly as domestic servants, laundresses or in factory jobs deemed too dangerous for white women.¹⁶⁴ They thus experienced a situation differing substantially from either that of women or black men, even those these sets also saw limited opportunities available to them. By the 1980's and 1990's, factory work was increasingly less secure and less desirable, and at this time also employed more and more African American women.¹⁶⁵ While the work available for women had changed, the association of lower status groups with flexible, expendable and dangerous work had not.

That divisions of labor are not natural and instead rely on non-economic factors is especially clear in the case of migrant or imported foreign labor. The most prominent ex-

163. As discussed Chapter 1, Section 4, this is the particular type of intersectionality that I am pursuing, with a focus on the importance of work as well as class, race, gender and nationality.

164. Teresa L. Amott and Julie A. Matthaei, *Race, Gender, and Work: A Multi-Cultural Economic History of Women in the United States* (South End Press, 1996), 168.

165. *Ibid.*, 336.

amples occur where the culturally, ethnically and often religiously different live, often for many years or even generations, in states with various levels of protection. A prominent example is the Turkish gast-arbeiters in Germany¹⁶⁶ or masses of African construction workers in Middle Eastern oils states like Dubai, although most states experience in and outflows of migrants that are complex and essential for understanding the relationship between work and citizenship. In schemas such as the German and Dubai ones, workers have certain limited legal rights, but are expected to repatriate to their own country at some point. In Dubai, the migrants, many of whom come from northern Africa, often do fit this pattern, especially given the precipitous drop in construction following the global contraction of the late 2000s. Frequently, the lens through which these problems are seen is one in which cultural integration is deemed unlikely due to perceived vast differences between culture, a lens mirroring a general tendency to oppose East and West.¹⁶⁷ However, the situations in Germany and Dubai, which are mirrored around the globe, point to

166. In Germany, Turkish workers have instead become a permanent part of the population, numbering 2.7 million in 2004, with about half of these holding german citizenship. Ali Mehdi, *Strategies of Identity Formation: Youth of Turkish Descent in Germany* (Springer, 2012), 19. This text explores this phenomenon through qualitative interviews with a set of youths born in Germany to Turkish parents, whose identity, and rights, are in flux, arguing ultimately that the future of Germany depends on changing relationships with its resident “Gurks”.

167. This “clash of civilizations” thesis does not hold up to scrutiny. Brittany Ann Tallman, “The Question of Turkish Integration in the Context of German Identity Conceptions” (thesis, Bowling Green State University, 2011), http://etd.ohiolink.edu/view.cgi?acc_num=bgsu1300456390.

the complex relationship between status citizenship and actual belonging, which can occur because of, in spite of or without formal membership.

3.4 The New Debtor's Prison and the Economic basis for Citizenship

That citizenship is connected in deep ways to concepts of work and worth is shown clearly in the rise of commercial and student debt, particularly with the reemergence of imprisonment for nonpayment. The United States broke with the tradition of imprisoning those who could not pay their debts in the colonial days, although similar practices such as indentured servitude, conscription, slavery itself and of course its replacement of sharecropping continued. Formal systems of imprisonment for indigence continue to be replaced by more diffuse systems of control, such as the use of vagrancy laws or imposition of court and other fees in cases that do not trigger the Fifth Amendment right to counsel.¹⁶⁸ These cases respectively insured that those without the inability to pay for court transcripts, or for appeals that were a matter of right, would not be prevented by their poverty from exercising these rights. These cases connect to the broader use of equal protection laws to protect the poor, particularly in the world of criminal law, where

168. In “*Bearden v. Georgia* - 461 U.S. 660 (1983),” *Justia US Supreme Court Center*, accessed April 7, 2013, <http://supreme.justia.com/cases/federal/us/461/660/>. the U.S. Supreme Court took up the issue of imprisonment for debt in by considering a case where an individual was sentenced to probation and required to pay a large fine in installments. He was unable to fully pay his fine, and thus sent to jail. This ruling followed in a line of cases that considered the importance of indigence or wealth in terms of the equal protection clause of the 14th amendment, such as *Griffin v. Illinois*, 351 US 12 (Supreme Court 1956), and *Douglas v. California* (1963).

the provision of counsel in criminal proceedings was guaranteed via the court's interpretation of the 6th amendment in *Gideon v. Wainwright*.¹⁶⁹ In *Bearden*, the Supreme Court determined that those without the ability to pay court ordered fines, restitutions or court costs could not be summarily imprisoned for this unwilling failure. They seemed to employ "intermediate scrutiny"; that is, demanding more compelling rationale from the state for his exercise of power than that required by rational scrutiny, but without marking the case as involving either the "fundamental rights" or "suspect classes" that would trigger the harsher requirements of strict scrutiny.¹⁷⁰ This reading of the case foresaw the possibility that poverty might be understood as a suspect class in the United States, triggering the protection of strict scrutiny. While there is little later case history to support this hopeful argument, and a counter-example found in the property tax upholding ruling of *San Antonio Independent School District v. Rodriguez*,¹⁷¹ the importance of thinking about the nature of the poor in relation to constitutional protection and debtors prison is only becoming more pertinent.

162. "Gideon V. Wainwright - 372 U.S. 335 (1963)," *Justia US Supreme Court Center*, accessed April 7, 2013,

170. F. Lutz, "Equal Protection and Revocation of an Indigent's Probation for Failure to Meet Monetary Conditions: *Bearden V. Georgia*," *Wis. L. Rev.* (1985): 121. Lutz claims that the court is actually applying the criteria of strict scrutiny, which demand a compelling government interest to which the law is narrowly tailored and employs the least restrictive means in meeting this test.

171. *San Antonio Independent School District v. Rodriguez* (1973).

Debt and poverty are thus, in the world of constitutional jurisprudence, constitutionally barred from triggering imprisonment on their face. *Bearden* concerned debts owed to the state, which had been historically treated somewhat differently than civil debts, the latter of which were disconnected from imprisonment in the early 1820s in most states.¹⁷² The development of bankruptcy laws, which of course allowed for debtors to move past large debts while retaining the basic good needed to live, along with prohibition of imprisonment for civil debt, virtually eliminated the practice. Indeed, there are persistent complaints that these policies are too today indulgent to debtors. As any student knows, educational debts are immune from bankruptcy, out of a concern that temptation to default on these very expensive loans would be too great¹⁷³. The assumption is that student debt is linked to the very ability to repay it, through the increased earning power provided via education, is a broad and often unwarranted assumption¹⁷⁴. This perhaps accounts for the growing focus of the student debt in the Occupy Wall Street movement, who see the stickiness of student debt as a virtual debtor's prison.

172. Ann K Wagner, "Conflict over *Bearden v Georgia* in State Courts: Plea-Bargaining Probation Terms and the Specter of Debtors' Prison, The," *University of Chicago Legal Forum* 2010 (2010): 383.

173. (It is odd that one can bankrupt oneself by pursuing "bad" debt on consumer goods, while the "good" debt of student loans must be retained. Perhaps this is what makes it "good". Perhaps, as some have suggested, student debt functions to coerce students to enter the labor market, particularly to seek high-salary employment, rather than pursue less lucrative interests or reject the system altogether.

174. Education, particularly at the associates or bachelors level, is still one of the best investments you can make.

Along with the permanence of student debt, the resurgence of actual imprisonment for debts, particularly civil debts, is alarming. Citizens can be imprisoned for failing to pay child support, alimony, and fees associated with driving a car.¹⁷⁵ While *Bearden* is still good law, it has not been interpreted to require an indigence hearing prior to sentencing (as the right to counsel does). Instead, individuals are assigned fines without assessment as to their ability to pay, and these fines are often compounded after they are imprisoned because they are then charged for their own “room and board” or other assorted fees, a situation that also applies to the general population of people released from prison.¹⁷⁶ Individuals are also often charged with contempt of court or similar procedural charges in relation to unpaid debts, sometimes resulting in multi-year jail sentences.¹⁷⁷ Our prisons are increasingly also debtors’ prisons, if *de facto* ones

The Dickensian flavor of debtor’s prison should not distract us from the stark reality that U.S. Citizens face imprisonment, along with the implied threat of starvation and

175. K. L Moss, “Debtors’ Prison,” *Michigan Bar Journal* (2010), http://spb.mplp.org:8080/download/attachments/5013511/spb_aclu_article_7-10.pdf.

176. Tina Rosenberg, “Out of Prison, Into a Vicious Circle of Debt,” *Opinionator NY Times*, accessed November 27, 2012, <http://opinionator.blogs.nytimes.com/2011/06/09/out-of-prison-into-a-vicious-circle-of-debt/>. And, as the New York Bar Association’s 2006 report shows, it is likely that around 80% of those accused of a felony in the United States are indigent, with two fifths unemployed or working only part time prior to arrest., and their ability to pay for their own incarceration in the months after exiting prison is less than their ability to provide their own counsel.

177. Richard E James, “Putting Fear Back into the Law and Debtors Back into Prison: Reforming the Debtors’ Prison System,” *Washburn Law Journal* 42 (2003 2002): 143.

homelessness, if they cannot support themselves via the labor market.¹⁷⁸ This does not mean that there is an easy solution; one of the reasons why these judgments have proliferated is that many of these cases relate to child support, and the state has an understandable interest in enforcing the requirements that biological parents provide for their children.¹⁷⁹ However, the high penalties and increased incarceration have not resulted in increased payment of these fines or back-owed child support, and are unlikely to serve as a workable solution for poor children. Indeed, most of these types of fines remain uncollected, despite the threat of imprisonment.¹⁸⁰ Even worse, the profits of these conflicts tend to go to commercial probation management companies. As the New York Times details, private companies are hired by the state and to collect debts, particularly in the cases of misdemeanor fines which do not trigger the requirement for counsel.¹⁸¹ Not only is the precarious worker at risk of imprisonment, but also this imprisonment itself helps build up a prison-industrial complex that provides cheap labor for manufactures and regularly turns profits for prison management companies.

178. As the Washington Post reports, debtors' prison is a reality in about a third of states (Silver-Greenberg 2011). Jessica Silver-Greenberg, "Debtor Arrests Criticized," *Wall Street Journal*, November 22, 2011, sec. Law, http://online.wsj.com/article/SB10001424052970203710704577052373900992432.html?mod=wsj_share_tweet.

179. Kirsten Levingston and Vicki Turetsky, "Debtors' Prison—Prisoners' Accumulation of Debt as a Barrier to Reentry," *Clearinghouse Review Journal of Poverty Law and Policy* (n.d.): July August 2007.

180. *Ibid.*

181. Ethan Bronner, "Probation Fees Multiply as Companies Profit," *The New York Times*, July 2, 2012, sec. U.S., <http://www.nytimes.com/2012/07/03/us/probation-fees-multiply-as-companies-profit.html>.

3.5 The Precariat needs Institutions that can transform the Conditions of Labor

Precarious labor is a problem for public sphere theorists because it produces conditions inimical to communal political action, and enforces the narrative that the goal of politics is to remove itself from the natural sphere of the market so that it can act unhindered; some theorists, however, see precarity and flux as a strength to be drawn on, rather than lamented. Clashes between the “creative class” hypotheses and claims about the “precariat” class animate social theory about workers in the new economy.¹⁸² The former suggests that knowledge workers and cultural producers, including those who produce via social networks or other Web 2.0 platforms, are evidence of the democratization of work and the possibility of governance from the ground up. The latter worry that the unstable conditions under which most people work, creative class or not, along with the eroding walls between work and leisure, are an increase in oppressive working conditions mistaken for liberation.¹⁸³ The similarities between their situations were exposed most clearly as the financial crisis of 2008 deepened, so that the creative class (whose precarity was understood as a type of entrepreneurship or portfolio building) was exposed as supremely

182. Rosalind Gill and Andy Pratt, “In the Social Factory? Immaterial Labour, Precariousness and Cultural Work,” *Theory, Culture & Society* 25, no. 7–8 (December 1, 2008): 1–30, doi:10.1177/0263276408097794.

183. Andrew Ross, “The New Geography of Work Power to the Precarious?,” *Theory, Culture & Society* 25, no. 7–8 (December 1, 2008): 31–49, doi:10.1177/0263276408097795. This piece argues that the seeming gulf between what is typically understood as precarious labor—part-time, service industry, transient or piece-work—and the creative class world is actually very narrow indeed, and that all workers are in a state of insecurity which calls for a cross-class coalition.

vulnerable to unemployment¹⁸⁴. While the mobile and flexible ideal of the young, creative consultant is aspirational for many, the accompanying insecurity and dislocation may not be.

Some thinkers even discuss the “precariat” as the heir to the proletariat and as a potential revolutionary subject.¹⁸⁵ Probably the most visible proponents of the creative and emancipatory power of workers today are Antonio Hardt and Michael Negri, who draw on a Marxist heritage to advance their theory of the “multitude.”¹⁸⁶ The “multitude” indicates that the revolutionary subject which confronts an international world order headed by the United States and other western powers is not united by class interests, as in the case of the proletariat, nor identity politics but rather remains relentlessly plural. The multitude is produced by, and productive of, networks of communication which both allow for the spread of capitalism and its alternatives through shared projects rooted in love. The multitude is contrasted with the concept of “people”, which is the formal and

184. Indeed, it may be that the traditional role of the artist, with its romantic attachments of freedom of movement, independence and garrett living, forms an ideological basis for the extension of contract-based and benefit-free work throughout the economy. Ibid.

185. The stirring of the precariat is associated with the anti-globalization protests in the wake of the 1990’s growth of neoliberal policies via the IMF, trade agreements like NAFTA and the expansion of the European Union into monetary and fiscal policy. Guy Standing, *The Precariat* (Bloomsbury Publishing PLC, 2011), <http://www.bloomsburyacademic.com/view/The-Precariat/book-ba-9781849664554.xml>.

186. Michael Hardt and Antonio Negri, *Commonwealth*, 1st ed. (Belknap Press of Harvard University Press, 2009) which follows on the heels of their popular Michael Hardt and Antonio Negri, *Empire* (Harvard University Press, 2001) and Michael Hardt and Antonio Negri, *Multitude: War and Democracy in the Age of Empire*, Reprint (Penguin Books, 2005). While *Empire* and *Multitude* are attempts to diagnose the problems of contemporary global postimperialism, *Commonwealth* proposes a emancipatory subject in the very result of a neoliberal world order.

entrenched unit of popular sovereignty into which Empire seeks to transform the productive and free-floating multitude.¹⁸⁷

What is problematic about their thinking is not that their political analysis is suspect as some have claimed, or that their theories are overly abstract, or overly optimistic, as others have. It is rather their adoption of the assumption, transformed, that the laboring classes will of their own accord develop class-consciousness and that when they do so, a public space will be waiting in which they can act. Despite their argument that the networked nature of the multitude provides new avenues for the expansion of solidarity movements, the argument essentially revolves around this occurring organically, and despite the networked nature of the powerful as well as the proletariat. What *Multitude* needs is an accompanying set of strategies and policies that would empower the groups the authors rightfully see as central for global political change, along with an account of the mechanism by which they can form a politics out of this solidarity.

187. Thus: “New figures of struggle and new subjectivities are produced in the conjecture of events, in the universal nomadism [...] They are not posed *merely against* the imperial system—they are not simply negative forces. They also express, nourish, and develop positively their own constituent projects. [...] This constituent aspect of the movement of the multitude, in its myriad faces, is really the positive terrain of the historical construction of Empire, [...] an antagonistic and creative positivity. The deterritorializing power of the multitude is the productive force that sustains Empire and at the same time the force that calls for and makes necessary its destruction.” *Multitude*, 60. Lest it seem, as critics claimed, that the multitude were merely the flip-side of empire, expressed in the so-called anti-globalization movement but incapable of truly creative projects, Hardt and Negri developed the idea further in *Commonwealth*, although the book does less than it purports to in differentiating itself from *Multitude*. Drawing on historical concepts of the commons and linking them to the creative capacities of networked workers, who are described as the “gravediggers” Marx tells us to look for, Hardt and Negri explore the possible basis in language and culture for a new common that upends the dominance of Empire.

Precarity is experienced through insecurity, unemployment, migration and dislocation, resulting primarily in the destabilization of both the ends and means that produce vibrant public spheres. Workers are at risk of poverty and imprisonment, even if employed, and rewarded on the basis of their exploitability, rather than work. This narrows the field of their political interests such that hedging against this precarity is the central focus, which does not produce the necessary tension with the political space required for a critical publicity to function. Nor does this flux automatically or easily create the sort of networks or associations that promote solidarity and action. Without looking at work, political theorists miss this challenge to their ideas about deliberative public sphere citizens.

3.6 Challenge Two: The other side of Precarity is Ubiquitous labor

We also need to recognize how work is both scarce, in the form of precarity, and overabundant, in the form of overwork and ubiquity. This is not a paradox; economic pressures lead to compressions at the demand side of the labor market, while also producing a climate in which workers have fewer options and this less power within the workplace.¹⁸⁸ In times of higher unemployment, workers are more likely to respond to pres-

188. Employers cooperate with workers, address their concerns, and/or give them a voice only when the cost of not doing so to company profits, flexibility and publications- is greater than that of cooperation.” Kate Bronfenbrenner, “What Do Workers Want: Reflections on the Implications of the Freeman and Rogers Study,” *University of Pennsylvania Journal of Labor and Employment Law* 3 (2001 2000): 385. This is rarely true in an economic downturn.

sure to work longer hours and take their work home with them. The second central challenge to workers, and to arguments that the “precariat” will rise up independently, come from the erosion of time and energy humans devote to other pursuits. This applies both to we spend our days and lives, including the degree to which education or socialization is focused on wage labor. Aside from working more hours in general, a trend that holds true for those with a salary and those who are paid by the hour or piece, demands from the workplace during non-work hours or the imperative to develop oneself into a better worker grow. Self-surveillance or treatment of one’s self as one’s resume embodies the need to conform to physical and mental qualities of a good worker, reinforcing norms hostile to variations in performance of gender, racial or sexual roles. It also applies to the functions of society as a whole, given the erosion of long-term ritualistic holidays that interrupted and regulated agricultural production under feudalism, which provided support for the poor as well as communal reflection. Time is experienced instead as uniform and linear, centered on the repetitive workday rather than the ebb and flow of ritualistic and spiritual time. Finally, some of the traditional spaces of resistance to work as necessity, such as art and education, are even more oriented towards producing saleable products, be they art or workers.

Human beings work for wages for more of their lives than in any point in history. This may sound only trivially true, given that the dominance of the labor market over other ways of providing sustenance is relatively new. It is indeed possible that the work of people in other times was as lengthy or as demanding as wage work now, although I

will suggest below that there were important contrasts in the system of work that provided space for other parts of life. Of course, who works, in what situation and for how much is a highly complex equation that varies by country, socioeconomic status and gender. However, it is not only in the famously overworked United States that hours spent working are rising; even in France, home of the 35 hour workweek and a maternalist policy that rewards women who do not work, the percentage of citizens who are seeking paid employment is on the rise, as is part-time work.¹⁸⁹

Indeed, the workers seek more hours in response to labor practices that reward companies for hiring part-time workers as well as overworking full-time ones. Part-time workers, who are much cheaper per hour for employers in the United States, can be used to carefully regulate the company's labor costs. In busier times, workers will be allotted more hours, while otherwise kept to a minimum, in a new twist on inventory on demand. The tendency of women and students to see themselves as voluntary part-time workers helps mitigate the potential backlash for this practice.¹⁹⁰ However, as is evident in the Wal-Mart protests developing around required work during holidays such as Thanksgiv-

189. "France: Less Work, More Time Off," *CBS News*, accessed November 22, 2012, http://www.cbsnews.com/8301-3475_162-704571.html.

190. Bruce J. Eberhardt and Steven B. Moser, "The Nature And Consequences Of Part-Time Work: A Test Of Hypotheses," *Journal of Applied Business Research (JABR)* 11, no. 3 (September 15, 2011): 101–108.

ing, and the hiring of many part-time workers who seek full-time employment, this tendency is not perfect.¹⁹¹ Indeed, increasing part-time work is no solution.

Similarly, a tight labor market encourages unwanted and unpaid overtime as workers attempt to retain their jobs. This applies both to salaried and hourly workers, the former of whom are often responding to professional norms that associate long hours with success.¹⁹² Working 12-hour days or more is normal on Wall Street, and these practices are common among doctors and other professionals as well¹⁹³ In professions that pay by the hour or have lower overall salaries, overtime is even more problematic.¹⁹⁴ It is more and more common for a technically 40 hour work week to stretch far beyond that; while each individual can be seen as “choosing” to stay late or take a second job, the

191. One argument is that these workers should be understood as “the working unemployed” given the frequency with which the instability in their work leads to taking on multiple jobs, some in the informal labor market, Stuart Henry, “The Working Unemployed: Perspectives on the Informal Economy and Unemployment1,” *The Sociological Review* 30, no. 3 (1982): 460–477, doi:10.1111/j.1467-954X.1982.tb00663.x. Alternately, we could identify a “dualism” that divides workers and promotes overwork. Chris Tilly, “Dualism in Part-Time Employment,” *Industrial Relations: A Journal of Economy and Society* 31, no. 2 (1992): 330–347,

192. In the United Kingdom 20-30% of workers worked unpaid overtime in 2010 “Trades Union Congress - 900,000 Workers Across the South East Are Working Unpaid Overtime,” accessed November 22, 2012, <http://www.tuc.org.uk/workplace/tuc-19216-f0.cfm>. This lead unions to call for a “Work your Proper Hours Day” for all workers. In the United States, data is lacking, but major corporations such as Google, Oracle and Bank of America have faced lawsuits alleging mandatory unpaid overtime, which are up 32% in 2011 Paul Davidson, “More American Workers Sue Employers for Overtime Pay,” *USATODAY.COM*, accessed November 22, 2012, <http://www.usatoday.com/money/jobcenter/workplace/story/2012-04-15/workers-sue-unpaid-overtime/54301774/1>.

193. Ho, *Liquidated*, 17.

194. About 21% of full time workers worked mandatory (unpaid) overtime *prior* to the recession. Golden and Wiens-Tuers, “Mandatory Overtime Work in the United States.”

ubiquity of the practice combined with the very real health effects bely that this choice is that free.

One of the other key elements of this erosion of “leisure,” the now elusive free time that was seen as on the rise in the 1960’s and 1970’s, is the extension of workplace surveillance and pressures from external sources to internal pressures on the self. Technology, most notably in the form of email and cell phones, allows for this easy bleeding of work time into leisure time, although it is not purely a function of advanced ability for work concerns to permeate home time.¹⁹⁵ Employees in less email-centric jobs are also subject to pressure to make themselves more available for work. As mentioned above, the rise of part-time service sector work coincides with a rise in expectations that part-time workers will be available when required.¹⁹⁶ Workers are also, by dint of pressure to retain and advance, expected to spend their time in self-improvement ventures that increase their attractiveness as employees.¹⁹⁷ Work and life becomes integrated so that even activities like learning new recipes or attending exercise classes, or getting divorced or into debt, become part of one’s own marketability.

195. Technologies allow for the constant access of work from home, but that this access leads to conflict most often for employees who heavily identify with their jobs and thus make themselves more available. Wendy R. Boswell and Julie B. Olson-Buchanan, “The Use of Communication Technologies After Hours: The Role of Work Attitudes and Work-life Conflict,” *Journal of Management* 33, no. 4 (2007): 592–610, doi:10.1177/0149206307302552.

196. Union workers are subject to these expectations as well as assumptions that they will not vary their schedule in response to unpredictable family crises. Williams, *Reshaping the Work-Family Debate*.

197. “You’re like an advert for yourself,” such that a CV becomes embodied in the physical and mental traits workers develop to stay competitive. Powers, *One-Dimensional Woman*, 32.

Indeed, this integration is so common that we might wonder whether post-industrial work *is* the new leisure, and that the blending of work and non-work time shows that work has become the source of fulfillment and identity that leisure once was.¹⁹⁸ While we should be wary of valorizing a mostly mythical world of leisure time, before neo-liberalism, the high amount of stress that workers experience, in combination with the very real tensions and even neglect of children and families due to work, suggests that this wholehearted identification with the workplace is not without major costs.¹⁹⁹ However, it is clear that the workplace is now the central locus for both social belonging and personal meaning, such that individuals identify with their work in a way once reserved for professionals. Or, they fail to identify with it, and thus identify as failures.

Work also takes up more of our time because the year as a whole is organized around a normalized schedule with few breaks for common holidays or rituals. This is explored in political theory in terms of the shifts in how time itself might be experienced.²⁰⁰ It is certainly empirically true that, while we think of feudal times as full of

198. Suzan Lewis, "The Integration of Paid Work and the Rest of Life. Is Post-industrial Work the New Leisure?," *Leisure Studies* 22, no. 4 (2003): 343–345,

199. For an argument that Tayloristic principles of scientific management have been effectively disseminated to leisure time, which is no longer functionally separate from work time, see Ed Andrew, *Closing the Iron Cage: The Scientific Management of Work and Leisure* (Black Rose Books, 1999).

200. Charles Taylor, in his massive exploration of secularism, sees our experience as time as essentially secular because of its homogenous character, rather than rhythm dictated by seasonal religious festivals

hardship, they were also punctuated by holidays and festivals throughout the year, which provided rest and community strengthening ties. As these traditions were replaced, the connections between rich and poor eroded.²⁰¹ Of course, the holidays that do exist for most workers (although of course not all) were hard-won in the early 20th century, as unions and other labor activists pushed against truly all-consuming workweeks and hours.²⁰²

In a similar vein, just as time becomes homogenized in relation to the workday, so to do the orientation of activities and institutions, most prominently education, towards the workplace. The purpose of public education has, in part, always been connected to socializing individuals so that could be good consumers, workers and citizens. Even the more stratified education systems, either historically or in non-American contexts, serve the function of preparing students for the roles they will play as adults, however modified by historical configurations of class or local conditions. The debate about the future of

and local happenings. He calls these “higher times” and claims that holidays can be “warps” which connect moments to each other, while normal time is experienced as expendable and commodified. Charles Taylor, *A Secular Age* (Belknap Press of Harvard University Press, 2007).

201. Professor James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (Yale University Press, 1987).

202. Perhaps holidays still provide much needed “slow time,” particularly for women who may often engage in both paid and unpaid labor. Rosemary Deem, “No Time for a Rest? An Exploration of Women’s Work, Engendered Leisure and Holidays,” *Time & Society* 5, no. 1 (February 1, 1996): 5–25, doi:10.1177/0961463X96005001001.

the liberal arts education is not a simple not concluded one.²⁰³ Yet, liberal arts education at its core resists market imperatives and creates humans with who are culturally literate and the ability to critically engage the systems around them. This ideal has never been available to even a fraction of the population in the United States or other wealthy countries, so some of the hand wringing is no doubt nostalgia in an unrealistic way. But, in another sense, the fight over the future of education is a fight over the role that work will play in the lives of future generations, and what sort of skills and sensibilities they will develop as part of their education.

3.7 Challenge Three: Depoliticization of the Economic Life

The ubiquity of work is particularly difficult to manage because working conditions and work itself are depoliticized so as to seem natural; to make a politics of work, work itself needs to be seen as a subject for political activism. This is not the same thing as making employment figures part of the political discourse, but asking why work is arranged in the way that it is, and under what conditions could we work differently. The term “depoliticization” has its theoretical origins in the work of Carl Schmitt, who accus-

203. For an overview, see Sheila Slaughter and Gary Rhoades, *Academic Capitalism and the New Economy: Markets, State, and Higher Education* (JHU Press, 2004). She argues that higher education has been converted to a market driven system of “academic capitalism” where universities shift to seeing students as customers and seek to maximize profit. Even beyond the university, welfare systems aim to produce good workers, particularly workers willing to take on unpaid labor in addition to a waged job. Nona Yetta Glazer, *Women’s Paid and Unpaid Labor: The Work Transfer in Health Care and Retailing* (Temple University Press, 1993).

es liberalism of adopting this process as a way of neutralizing conflict.²⁰⁴ Thus if the market, and by extension the labor market and workplace, is itself perceived as responding to natural economic laws, the conditions of the workplace are themselves natural. Given that work is connected intimately to some of the more depoliticized elements of society- private life, the family and technology- this is no wonder.

The lack of interest in work by political science and theory echoes its' general depoliticization. This trend is not new.²⁰⁵ Indeed, as union based politics, not to mention socialist alternatives, are on the wane in the United States and in the world, the vehicles for studying the power dynamics, socialization effects and organization of work in a political science are fewer and fewer. Perhaps this depoliticization is linked to the capitalist form of waged work, but also the historical heritage of the work ethic.²⁰⁶ If work is ubiquitous and somewhat inevitable, than it may seem that making it a subject of norma-

204. “[D]esignating the adversary as political and oneself as nonpolitical (i.e., scientific, just, objective, neutral, etc) is in actuality a typical and unusually intensive way of pursuing politics.” Carl Schmitt, *The Concept of the Political: Expanded Edition*, trans. George Schwab, Expanded (University Of Chicago Press, 2007), 21

205. C. Wright Mills, *White Collar: The American Middle Classes: The American Middle Classes* (Oxford University Press, 2002) This famous exploration of “the American middle classes” predicts a great many of the above trends in the early 60’s, and he begins his study by noting that the frequent intra-comparison of different sorts of work rarely rise to questioning “the world of work as presently organized.” 3.

206. Weeks, *The End of Work*, 22-34

tive political theory is pointless. The exceptions to this rule, as discussed in the introduction, have broadly been calls for more democratic organization of the workplace.²⁰⁷

However, the call for genuinely democratic workplaces has been met by internal reorganization that does not substantively shift power to employees, although it occurs under the name of empowerment. Employee empowerment is a central tenet of management literature from the 1990's, replacing the earlier calls for post-Fordism and flexibility.²⁰⁸ In a representative quote, empowerment was supposed to “unleash the synergistic, creative energy of everyone in the workplace.”²⁰⁹ In other words, calls for democratic empowerment in the workplace have been perverted into profit-gaining ventures that seek to shift responsibility to employees in hope they produce surplus surplus value. These sorts of processes have been implemented in all kinds of workplaces, including assembly lines through the much-vaunted Total Quality Management system, all the way up through mid-level management. There are not, however, corresponding shifts in the ownership structures of most businesses, nor in the decision-making hierarchy.

207. Dahl, *Preface to Economic Democracy*; Pateman, *Participatory Democracy*

208. B. Harley, “The Myth of Empowerment: Work Organisation, Hierarchy and Employee Autonomy in Contemporary Australian Workplaces,” *Work, Employment & Society* 13, no. 1 (1999): 41–66. This type of thinking either involves a commonsense involvement of employees in the decisions that affect them, or the grander shift to a conceptualisation of “leadership” by employees that replaces the paternalistic relationship, and is embodied in practices like autonomous team based work groups.

209. S. Covey, “Empowerment: The Core of Quality,” *HR Monthly* (1994): 9.

Workplace democracy has been folded into the depoliticized workplace and its mini- realization in the form of “empowerment” has dovetailed with increased self- and co-surveillance at work, rather than the desired democracy. Instead of meaningful control of their working conditions, employees increasingly function under the simulacrum of control that expresses itself in a need to monitor oneself and others for performance goals. The hierarchical nature of corporations themselves, and their relationship to the market via shareholder responsibility is unchanged, as are the wage and power differentials between workers. Surely an authentically worker-controlled entity would alter these structures significantly. Even the famed Mondragón worker’s cooperative in the Basque region of Spain functions has been accused of behaving very similarly to non-cooperative firms in the area, and that workers in fact are less likely to push for their rights to democratically control the entity, in part because the myth of horizontal control diffuses potential conflict, further depoliticizing work.²¹⁰

While Michel Foucault’s claims about disciplinary power form the backdrop for much analysis of workplace control, postulating an overall shift in the organization of surveillance and visibility is not required to make the point that employee empowerment is often a smokescreen for increased pressure and control.²¹¹ We might understand this as

210. Sharryn Kasmir, *The Myth of Mondragón: Cooperatives, Politics, and Working-class Life in a Basque Town* (SUNY Press, 1996).

211. This is beautifully illustrated in the 2005 film *Brazil* directed by Terry Gilliam, where the anti-hero is promoted to a basement office, where his desk is shared through the wall with another employee,

the privatization of stress, such that each individual worker is expected to take responsibility for the corporation as a whole.²¹² This way of training or treating employees is not limited to white collar employment; from McDonald's to the factory floor, a focus on empowerment and identifying with one's work is common. Just as the ubiquity of work makes work more common outside the workplace, so too does the cooption of workplace democracy make work itself more pressured and all-consuming.

3.8 Challenge Four: Work in the world relies on Reproductive Labor in the Home

If the work of citizenship is made difficult to undertake given the three challenges above, it is made nearly impossible by the incapability of waged work with the work and labor in the home that supports families *and* politics. This is especially problematic because shifts to dual earner families put immense pressures on workers, particularly in relation to traditional gender roles. This shift is far more central to experiences of work/life conflict than the extension of working hours, as families struggle to cope with household

and to a complete lack of information about his duties. Instead, the head of his department tromps through echoing corridors, as employees mob him for signatures. This is employee empowerment taken to an extreme, but just as in lesser examples, results in turning pressures inward and making the employee the focus of any mistakes.

212. Mark Fisher, *Capitalist Realism: Is There No Alternative?* (John Hunt Publishing, 2009).

care work, including childcare responsibilities.²¹³ When “work/life balance” is discussed, the image evoked is of an upper-class professional woman who is deciding whether to take time off from work to raise her children. Debate about this choice has focused and derailed feminism since the gains in women’s employment in the 1970’s and 1980’s, focusing on “choice” and arguing about the relative value of these choices. The struggles of professionals are no doubt less than sympathetic for the majority of Americans, who may not connect their own experiences of tensions between work and family with the stylized drama over the mommy track. Nonetheless, the way that work is organized today is incompatible with the care work required in the home. This is true for professional jobs where long-hours, perhaps measured in terms of what is billable, combine with competition for promotion and assumptions that women with families will be less dedicated produce conflict. This is, of course, part of the explanation for the remaining glass ceiling effect, given the continued higher levels of childcare and housework undertaken by women.

However, other types of work are also incompatible with family responsibilities, and this incompatibility may be particularly difficult on non-gender role conforming individuals, like men, who seek to navigate this tension. Working class men, who may be part of masculinized workplaces where care responsibilities are interpreted as deviant,

213. Jerry A. Jacobs and Kathleen Gerson, “Overworked Individuals or Overworked Families? Explaining Trends in Work, Leisure, and Family Time,” *Work and Occupations* 28, no. 1 (February 1, 2001): 40–63, doi:10.1177/0730888401028001004.

struggle to manage work and family.²¹⁴ This is not an argument that work needs to bend to match up with the natural form of the nuclear family; no doubt, many of these tensions emerge also from gendered assumptions about who raises children and who provides materially for individuals. But given that neither side of this equation matches up with the ideal, it is time for both families and workplaces to change.

Indeed, one way to understand shifts in the workplace is through an exploration of the role that gender still plays in work. In particular, labor is also frequently described as “feminized.” This both means that women, worldwide, have surpassed men quantitatively in the workplace, and that qualitatively the work that people are likely to engage in is that traditionally associated with femininity. Many, perhaps even most, people work in jobs where they persuade, sell, serve, enable, respond, care for, raise or even cook or clean for others. These are, obviously, the traditional roles of women. The service economy is the most obvious aspect of this shift, but so is the rise of an economy more and more driven by socially reproductive labor, that is labor that communicates and nurtures our shared culture and bodies. Women are traditionally the producers of culture in this sense, even if what they traditionally pass on is patriarchal. To feminize labor is therefore to make it

214. Joan C. Williams, *Reshaping the Work-Family Debate: Why Men and Class Matter* (Harvard University Press, 2010).

reproductive, but also to render it weak and vulnerable to the excesses of capital, which is masculinized as the manipulator and consumer of culture and raw labor.

Indeed, women themselves are very attractive workers for the new economy. One would think that their greater share of childcare and housework would make them unattractive, and indeed this is typically blamed for the remaining “glass ceiling” effect. Many people are burdened with the pressures of care and housework, including powerful women who may face heightened pressure to perform as well as those in more typical jobs.²¹⁵ However, their commitments to unpaid labor outside the workplace mean that women are more likely to accept part-time work, which is typically lower paying and without benefits. They may also be willing to take on piecework in the home, or intermittent work that is understood as an extension of their chores.²¹⁶ Women are useful to employers precisely because of the conflict that may have with family life.

The anxiety produced by the desirability of feminized labor in the new, networked economy (even as this employment is increasingly contingent) is displayed in the cultural churn around the “mancession” and general hand wringing about crisis in masculinity..

215. See Rosabeth Moss Kanter, *Men and Women of the Corporation: New Edition*, 2nd ed. (Basic Books, 1993); Ruth Simpson, “Have Times Changed? Career Barriers and the Token Woman Manager,” *British Journal of Management* 8 (June 1, 1997): 121–130, doi:10.1111/1467-8551.8.s1.10.

216. For example: Chandra Talpade Mohanty, Ann Russo, and Lourdes Torres, *Third World Women and the Politics of Feminism* (Indiana University Press, 1991). This text explores how the construction of a variety of jobs as “women’s work”- whether they are lace making in India or assembly of chips in Silicon Valley- relies on assumptions about the close connection between women and motherhood to obtain flexible and committed workers

The tight connection between whiteness, masculinity, work ethic and citizenship is challenged by a global labor market that seeks out women and minorities, and values emotional labor. Many news stories trumpeted the “mancession,” claiming that the recent job losses hurt men much more than women, and others claimed that hiring was also disproportionately helping women. Although it is true that job losses in male dominated industries like mining and manufacturing meant more job losses for men, the recovery has benefited men more than women.²¹⁷ Still, middle-aged and working class men, once the most likely to be employed in stable and long term jobs, are less likely to be employed in general, and in such jobs in particular. This makes them prime allies.

3.9 Reflections on the Central Challenges of Contemporary Work

That these issues are problematic in terms of equality and justice is no surprise, but this interaction with democratic theory suggests that the organization of work is a central *democratic* problem. Rather than the independent, vocal, speaker who moves from a secure private space into a public one of contestation and inequality, we have dependent, mobile, precarious workers whose education is aimed at meeting labor force demands, even as paid work clashes with gendered care responsibilities in the home. And,

217. “Two Years of Economic Recovery: Women Lose Jobs, Men Find Them,” *Pew Social & Demographic Trends*, 2011, <http://www.pewsocialtrends.org/2011/07/06/two-years-of-economic-recovery-women-lose-jobs-men-find-them/>.

given the centrality of work, we have little explanation of how the public is built and sustained, or by whom. The promise of a mini-public within the workplace has turned to the control of workers, and the movement of women to the workplace has only increased the pressures on families. Work is the central problem for a full theory of democratic citizenship today.

The good citizen has a good job which adds to society through productive increases in GDP, and yet these jobs are not limited by status citizenship via outsourcing while growth in America centers on, on one end, service and care industry jobs like healthcare, personal services and entertainment, and on the other, self-consciously non-national and entrepreneurial knowledge workers epitomized by the technology sector. The unemployed, while not technically barred from citizenship (and indeed blessed with the leisure time to participate), lack the informal standing of a wage and corresponding place in the political order, while those with work are likely to be distanced from the political space because of the very work they do (if it is abject) or divorced from national and local politics because of the global orientation of their work. It should be no surprise to anyone that technological elites are willing to renounce their citizenships or seek out complex tax havens to avoid capital gains taxes. Indeed, we have come to a point where, in Aristotle's terms, most of us are living as non-citizens, or "natural slaves" while a select few live not as citizens but as nomadic elites, with few commitments to particular political spaces.

The unemployed, are likely to experience their own alienation from the political space, aided in part by the demonization of public assistance in the political world. Illustrations of this are not hard to find in the wake of massive unemployment in 2009 and 2010. While much of the reporting has focused on the psychological traumas of unemployment, often in relation to de masculinization experienced by male ex-breadwinners, this psychological distress points to the paramount importance of employment for American citizens. It also suggests that the model of citizenship prominent in the west is built squarely on masculine conceptions of work and respect. The trick is to cultivate meaningful work and accompanying respect (self and otherwise), without demeaning work that is not masculine, and while building the social solidarity that makes political action possible and desirable. This can only happen by rejecting the current way that we work, particularly in its commitment to an inaccurate model of a head of household worker with few outside responsibilities.

The difficulty of meeting these four challenges to the livelihood and democratic possibilities of workers is readily apparent. In specific, work trains people who do not fit the dominant mode of democratic theory, particularly because they spend their time in the privatized space of the workplace, learning to form themselves flexibility to market imperatives rather than developing norms of universal public reason. They also lack the supportive network or public space in which to act politically, given the spread of depoliticized work throughout life and even time as experienced by workers. Finally, they struggle to sustain themselves in a working world characterized by mobility and flexibil-

ity, requiring constant self-surveillance. In the last chapter, I will suggest reforms that will better support democratic citizenship and more stable work; however, it is also necessary to rethink democratic theory. To do this, we should follow the examples of actual citizens who sought to moderate or overcome the challenges of the political space they lived in, by drawing on the importance of their previously unrecognized work for citizenship. For two such examples, I look to the American historical experience of workers and citizens.

CHAPTER FOUR: CONTESTING CITIZENSHIP: SHAYS' REBELLION, *THE ARTICLES OF CONFEDERATION* AND THE PROGRESSIVES' PROMOTION OF GOOD CITIZENSHIP

4.1 Introducing the Historical Dimensions of the Problem

If we want to overcome the challenges to public sphere citizenship discussed in the last chapter, it will help to illustrate how work/labor hierarchies relates to political citizenship in an historical sense. This illustration will both provide an example of a group of citizens who sought to build public spheres around the concepts of need, rather than individualistic independence. Given their spectacular and violent failure, in the form of Shay's Rebellion, it will also offer a warning that changing the relationship between hierarchies of work and citizenship is a hard task. Their failure, however, was made good over one hundred years later in the work of Progressive theorists who struggle to extend concepts of citizenship to include those who labored, even as this extension produced new complexities and altered the original Aristotelian concept of citizenship markedly. We can see this shift also in the struggle of the role of the government in the courts, which provides fodder for a theory of democratic work.

The citizenship regime under the Articles of Confederation displays the clash between doctrines of democratic citizenship and experiences of the soldiers and workers whose class did not qualify them for the franchise. They contested this exclusion not on the basis of universal human rights, but rather in the language of desert, need and group

rights of assembly and constitutional competency. Of course, women and slaves, not to mention those below the waged laborers, free blacks and foreigners, were also without a voice in the new republic, but it was those on the margins of acceptance who put forth an alternative conception of good citizenship and a just economic order, as well as a public sphere in which to speak. While their claims returned in later arguments by populist farmers, remaining a subterranean stream in American political thought, to a great extent this alternative was quashed in the progressive response to urbanization and industrialization, where concerns about the “mass” citizen and worker fed impulses to regulate family life through by rewarding masculinity in the form of ordered wage labor.

4.2 Citizenship in Liberal and Republican theory

The origins of normative conceptions of citizenship in the United States emerge from the colonial experience of crafting a new political order, drawing on the heritage of European social and political thought to address the unique challenges that faced the ex-colonists, such as slavery, relatively low levels of education and literacy, and debt. As many have traced, the two strongest theoretical bases for good citizenship evolved from the liberal individualist tradition²¹⁸ and the civic republican.²¹⁹ An ever-shifting combina-

218. Tracing the history of liberalism in itself and in America is a dissertation in itself. However, Louis Hartz, *The Liberal Tradition in America*, 1955 is the classic text, although his claim’s that there have never been true alternatives have been widely debate; see David F. Ericson and Louisa Bertch Green, *The Liberal Tradition in American Politics: Reassessing the Legacy of American Liberalism* (Psychology Press, 1999);

tion of these two approaches to citizenship prevailed, with the liberal social contract serving as a model for basic membership and rights, and the civic republican for exemplary citizenship that ought to be admired. There are serious differences between these approaches, particularly in contemporary adherents. However, both approaches valorized the individual property owner, even sometimes allowing for members of otherwise sus-

Brent Gilchrist, *Cultus Americanus: Varieties of the Liberal Tradition in American Political Culture, 1600-1865* (Lexington Books, 2007) and of course, Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (Yale University Press, 1997). For the roots of liberalism in political theory, see Crawford Brough Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford University Press, USA, 1964) for the association of the roots of liberalism and acquisitiveness. The core concepts of the somewhat varied approaches that fall under the heading of liberalism include “an image of human beings as essentially equal, rights-bearing, interest oriented individuals who are entitled to have these rights defended, especially against governmental intrusion” James P. Young, “Reconsidering American Liberalism” in Andreas Hess, *American Social and Political Thought: A Reader* (NYU Press, 2002)

65. Civic Republicanism is associated with historical traditions in Europe as well as arguments about the founding traditions in the United States, often centered around the Cambridge School and the works such as Quentin Skinner, *The Foundations of Modern Political Thought. 1. “The” Renaissance* (Cambridge University Press, 1980); *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation* (Cambridge University Press, 1978) and Gisela Bock, Quentin Skinner, and Maurizio Viroli, *Machiavelli and Republicanism* (Cambridge University Press, 1993). In these accounts, civic republicanism is an historical alternative to liberalism where the activities and virtues of citizenship are foregrounded, as is the importance of constitutional government. For application to the American context, see John G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (1975); Bernard Bailyn, *The Ideological Origins of the American Revolution*. Harvard University Press, 1967; Gordon S. Wood, *The Radicalism of the American Revolution: How a Revolution Transformed a Monarchical Society into a Democratic One Unlike Any That Had Ever Existed*, (1992); Gordon S. Wood, *The Creation of the American Republic 1776-1787*, (1969). Thomas L. Pangle critiques these thinkers for overemphasizing aspects of positive freedom in their explorations of civic republicanism in *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (University of Chicago Press, 1990). Contemporary civic republican Philip Pettit responds to this critique by arguing for the concept of freedom as non-domination, which is preferable to concepts of freedom as non-interference because “you can be dominated by someone, in the case of the lucky or cunning slave, without actually suffering interference at their hands and you can be interfered with by some agency, as in the case of subjection to a suitable form of law and government, without being dominated by anyone” (Philip Pettit, *Republicanism: A Theory of Freedom and Government: A Theory of Freedom and Government* (Oxford University Press, 1997,) 80.

pect groups to gain membership because of their status as men of property and leisure. To be a good liberal citizen is to quietly tend one's enlightened self-interest and private good, while avoiding harming others in the polity. This citizen ideal is associated with the independence of traditional masculinity, and activities such as military service in contrast with the dependence of women and children.²²⁰ Civic Republican citizenship certainly requires a much thicker engagement with the "public good," and a concern that political life be as important as private life. However, the good Civic Republican citizen, if civic minded and perhaps less individualistic than the liberal citizen, is also defined by independence and masculinity.²²¹ These two classical approaches to citizenship heavily influenced the elite debates at the time of the founding, and independence was frequently associated with landowners who were not dependent on daily labor to maintain their own lives.²²²

220. Perhaps understood as an underlying "sexual contract" which links the liberal social contract model to the story of "how a specifically modern form of patriarchy is established" (Carole Pateman, *The Sexual Contract*, 1st ed. (Stanford University Press, 1988), 1. Or, perhaps through policies which reward the greater obligations of men, such as military service, preserve this tension even when women are formally equal. 1. Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (Hill and Wang, 1999).

221. Even Pettit's configuration of freedom as non-domination, that is, the capacity to interfere in other's affairs, particularly arbitrarily, celebrates independence and self-sovereignty. Perhaps "civic republican conceptions of citizenship are so demanding that citizen responsibilities can be met only by people who belong to a relatively leisured elite." Alison M. Jaggar "Arenas of Citizenship; Civil Society, the State and the Global Order" in St Louis Marilyn Friedman Professor of Philosophy Washington University, *Women and Citizenship* (Oxford University Press, 2005), 93.

222. Thomas Jefferson is the most famous advocate of such a land centered polity, when we writes "Divide the counties into wards of such size as that every citizen can attend, when called on, and act in person." Thomas Jefferson and Merrill D. Peterson, *Writings* (Literary Classics of the U.S., 1984), 1399.

Yet independent landowner was not the actual position of most citizens under the Articles of Confederation, and the question of what sort of work should count for good citizenship was an open one, particularly in relation to money and debt. The pressure from poorer citizens in the Northern States, particularly those with high debt loads, exposes the close relationship between political citizenship rights and economic or social ones. One of their strongest demands was the end of debtor's prison, which they argued was an unjust application of state power for what was essentially a private, community matter. The development of the debt economy is intimately tied to the creation of state power, which shifts localized regimes of credit to debt regimes backed by force.²²³ Debtor's prison, and associated practices where entire homes or, perhaps apocryphally, an old woman's bed, were forcibly removed from those who owed either taxes or debts to other citizens, were a normal occurrence in 18th century United States. However, the citizens and soldiers who had supported the Revolution did not accept this practice, or the growth of state taxes in general, as appropriate for the free and self-governed people, whose exercise of their political rights, as well as access to economic opportunity, required that their basic needs were met. Each person, (able-bodied white male), needed the security and resources from which to secure his broader place in society.

223. David Graeber, *Debt: The First 5,000 Years* (Melville House, 2010).

4.3 Federal Citizenship under The Articles of Confederation was linked to Mobility

The Constitution of 1787, or at least its interpretation in the Federalist Papers, favored a hybrid of civil republican and liberal visions of American citizenship, but the Articles of Confederation that they replaced were open to a wider variety of citizen practices. Typically, the Articles of Confederation are faulted failing to solve coordination and free rider problems, particularly those raised by common defense or trade; however, they also allowed for non-elites to act politically in a way rejected by the 1787 Constitution, perhaps providing another impetus for their adoption. This event and surrounding political debate, and the Anti-Federalist Papers themselves, offer a clear vision of citizenship housed not only in the Civic Republican tradition of active participation, but moving beyond it into a populist advocacy of democratic collective rights, both to the material supports required for political participation and direct constitutional competency in the form of nullification and recall. Yet the type of government and society reflected in and promoted by the Articles, even as reflected in the famous Shays' Rebellion, was not destroyed by the adoption of the U.S. Constitution, but rather remained a subterranean force.

While the Treaty of Paris officially ended the war on September 3rd, 1783, the colonials had been operating under the Articles of Confederation since 1777, and they were officially ratified in 1781. There are few descriptions of citizenship in the Articles, as the extremely limited scopes of federal powers make the idea of Articles citizenship some-

what self-contradictory. We find the familiar guarantee "to all privileges and immunities of free citizens in the several States" granted to all state members.²²⁴ This article barred slaves by definition, but also listed "paupers, vagabonds, and fugitives from justice" as lacking protection.²²⁵ These privileges and immunities are given some definition as the Articles go on to guarantee freedom of motion between the states, and forbade trade policies, such as duties or taxes, that are only applied to non-state residents.²²⁶ To be a citizen under the articles was to be mobile.

These basic scaffolding was less about citizenship in a normative or rights-based sense, and more about the political economy established by this understanding of citizenship. The Articles were protected, or attempted to protect, an open market for labor as much as capital, at least inasmuch as every member of the United States must respond to the same rules in whatever jurisdiction they found themselves, and this extended to non-commerce related laws, and to extradition of those charged with "treason, felony, or other high misdemeanor in any State."²²⁷ While this last provision is of course part of attempts to create a united criminal justice system, it also supports greater mobility of labor because it reassured employers that mobile citizens will still be subject to rule of law.

224. Articles of Confederation, 1781 art. I, § 4.

225. Ibid.

226. Ibid, art. 4 § 2-4).

227. Ibid.

An *Articles* citizen is thus a mobile one, who can move between states with little trouble, and perhaps also to bring goods from state to state. This seems inconsequential in our current understanding of states as nearly borderless entities, but at the time is a bold transformation of relations between the states. It is at the level of state citizenship that citizen's political rights are secured, as the Articles are silent otherwise on the place of the individual. Even the requirements for delegate selection are left up to the states, which of course have one vote each. The primary focus of political belonging is in fact the states. Yet, there is a hint of national citizenship here, as the guarantee of portable privileges and immunities suggests.

However, the Article citizen is not merely a commercial one, moving between states in the service of commerce. He or she is also a potential judge, which is more central to a broader conception of citizen competence than the otherwise broader protections for citizens in the 1787 Constitution. Because of the remaining borders between states mean conflict, a complex system for the settling of controversies between different states is adopted.²²⁸ If the two states in conflict cannot mutually agree to appoint a court, then congress shall name "three persons out of each of the United States" and then proceed to whittle this list, partially by lot, until a commission of judges is seated. Each Commissioner must swear "well and truly to hear and determine the matter in question, according

228. When there is a dispute, disputants will choose "by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question" and if this fails, congress will choose by lot. Ibid.

to the best of his judgment, without favor, affection or hope of reward.”²²⁹ The commercial citizen is thus always also a potential judge of the highest controversies, a sort of proto-supreme court that is utterly of the people. The importance of this is not merely the type of skills it assumes and cultivates, but the very central place that such adjudication of conflict has in social contract theory, and the reasoning behind the new government²³⁰. And in the Articles of Confederation, all citizens may be called on for this duty.

Of course, this judgment applied only to *states*, not to individuals, which severely limits it as national form of citizenship. It is interesting, however, that the facility of judgment was thus nationalized, while punishment of citizens was held at a state level. This is a different system altogether than the dual citizenship that ends up evolving under the constitution. This dual citizenship is one where all restriction and punishment is a state or local affair, while the ability to move freely, to work or trade and to serve as adjudicator are nationalized.

229. Ibid.

230. Indeed, one way to read Thomas Hobbes' *Leviathan* is not as a proto-fascist glorification of the need for an absolute government to prevent murder and quell paranoia, but rather as an invocation of the power of shared definitions and common names. The problem in the state of nature is this lack of clarity about justice, ownership and right, and the establishment of a commonwealth provides for the adjudication of this issue. Similarly, Locke suggests that one of the "inconveniences" that makes trade difficult is the lack of an unbiased arbiter to hear our claims

4.4 Why political economy was a key locus of struggles for Political Membership

There are three main areas in which the Articles were found wanting, and which provided justification for the move to the more powerful government that eventually emerged. First, struggles over currency, debt, and the lingering costs of the revolutionary war. Second, concerns about the decision making process itself, as inefficient and perhaps even tyrannous. Finally, the specter of war, and the need for a clearer voice in foreign affairs prompted this conflict. Embedded in each of these was a concern about the type of citizen allowed for and promoted by the articles, a citizen who was both a worker and (potentially) direct participant in public and constitutional affairs.

A populist vision of citizenship housed in a free people, not limited to the landed gentry, and attracted many actual citizens, including Daniel Shays. Shays' Rebellion is the most well known confrontation between state government and citizens before the adoption of the Constitution, but hardly the only. It does bring to the forefront the complex stew of competing interests and concepts of nationhood present in the newly minted states. Indeed, its very designation as a "rebellion" reflects the interpretation of the elites of Massachusetts, who saw in the mass action "a contempt for all constitutional government" and indeed raised \$20,000 to quell the disturbance.²³¹ Elites of several states sup-

231. Joseph Parker Warren, "The Confederation and the Shays Rebellion," *The American Historical Review* 11, no. 1 (October 1, 1905): 42–67, doi:10.2307/1832364, 44.

ported Governor Bowdoin of Massachusetts by push for the use of federal military, such as it was, to end the conflict and protect the large store of weapons and ammunition stored at Springfield. They were also eager to use the incident as motivation to scrap the Articles of Confederation. A side-effect or, in a more insidious reading, a goal of the update was to rein in the model of co-constitutive workers' citizenship embodied in the conflict, which was not seen by most participants as a "rebellion," but rather as a patriotic act of creative citizenship and defense of a political economy that rejected the growing power of finance capital.

While Shay's Rebellion often refers to a specific clash, occurring at Worcester, Massachusetts in September of 1787, the discontent and activism that built this movement began much earlier. The Massachusetts Constitution, which included many a protection not included in the Articles of Confederation and a relatively expansive view of citizen rights, limited suffrage to: "Every male person being twenty-one years of age, and resident in any particular town in this commonwealth, for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town."²³² For the election of state officers, the requirement was an estate worth 60 pounds. These requirements left a great many small farmers who had previously been able to vote and hold office, at least in local elec-

232. Constitution of Massachusetts, 1780, Section 3; Art. IV

tions, disenfranchised. This shift was a shock for many smaller farmers or workers, especially for those who had served in the Revolutionary army and understood themselves as a part of the new polity.

It was not merely the changing voting requirements that politicized these (mostly) men; arguments about debt, currency and inequality were central to the post-revolutionary experience, both at the individual and state level. We are familiar with the elite version of these arguments in the form of the fights over the national bank. For non-statesmen, these arguments went beyond the academic, although they also contained a political theory. No doubt the depression of 1785 was an important backdrop to this action, but dissent is not fully explained as an economic protest prompted by narrow self-interest. Not only were some participants well off, but their demands were not merely for debtors' relief, but also for the institution of a system that would insure more balance between debtors and creditors, and recognize the key nature of work, especially paid work, for American political life. Indeed, their claims would be echoed by the protests of the Progressive Populist Party after the civil war, and formed part of the justification for the New Deal.

The backdrop for the currency crisis was of course the Revolutionary War, which had accrued a great deal of debt abroad, which must be paid in gold. The Articles provided for the contribution of each state to this repayment effort, the lack of enforcement

mechanisms created a classic collective action problem.²³³ States who did not pay their share were not punished, and states that did ended up paying more than originally intended. But each state had high debts of its own, and so the taxation rates were quite high, averaging about \$200 per head of household, and \$50 per each person, including children.²³⁴ This was more money than most farmers, even successful ones, earned in an entire year, and the average salary for workers hovered around \$25 per annum.²³⁵ Prior to the Revolutionary War, trade with the West Indies, particularly the products from the fishing and whaling industries of New England, had been robust, but these industries would take some twenty years to recover from the loss of ships and skills that occurred during the war.²³⁶ The textile and other industrial production that New England would become famous for had not yet fully developed, and the agrarian production of the south, while more profitable, relied on the unremunerated labor of slaves rather than free laborers, and this led to a different set of tensions and political rebellions.

233. Keith L. Dougherty and Michael J. G. Cain, "Marginal Cost Sharing and the Articles of Confederation," *Public Choice* 90, no. 1/4 (March 1, 1997): 201–213.

234. Jonathan Smith, "The Depression of 1785 and Daniel Shays' Rebellion," *The William and Mary Quarterly* 5, no. 1, Third Series (January 1, 1948): 77–94, doi:10.2307/1920948, 80.

235. *Ibid.*

236. This decline can be tracked in the petitions of sailors and fishermen to legislatures of the time. One representative example is that of Portsmouth, New Hampshire, where the petitioners claimed that "[m]ultitudes are reduced from easy Circumstances to want & beggary, and half of the Inhabitants are without Bread or Fuel." Quoted in Russell M. Lawson and Benjamin A. Lawson, *Poverty in America: An Encyclopedia: An Encyclopedia* (ABC-CLIO, 2008), 142.

Not only were there approximately 90,000 ex-soldiers who were adjusting to life after serving in the continental army, or various militias, but also many of these were owed back pay from the new government.²³⁷ Per the Articles of Confederation, each state was encouraged to keep an active and armed militia²³⁸. Furthermore, the recompense for debts owed was a suit in the courts, yet (per the Articles of Confederation) no suits could be brought by states or individuals against the federal governments. However, suits could (and were frequently) brought against debtors, and the spike in these court cases mirrored the high rates of debt and default all around.²³⁹ While lawyers may have profited off these exchanges, collecting from all sides, the net effect on most citizens was property seizure and in many cases, debtor's prison. The inability of people to pay debts was compounded by a lack of standard currency that was accepted; while debts and taxes needed to be paid in hard currency backed by species like gold or silver, this was in short supply. Instead, most people and workers had the paper currency that had been issued by most states and the National government during and after the war, which was not always accepted. It was

237. Sometimes this back pay was issued in the form of land certificates for land in the west, which “most of the ex-soldiers sold to land speculators at very low prices.” Thomas R. Dye and Harmon Zeigler, *The Irony of Democracy: An Uncommon Introduction to American Politics* (Cengage Learning, 2008), 22.

238. A comparison of these militia clauses and the infamous right to bear arms in the Constitution of 1787 lends credence to the idea that the second amendment's protections were a collective right as originally conceived.

239. Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Harvard University Press, 2009), 86. In a typical setup, “debtors were confined... to a room about fourteen to fifteen feet square” in a special part of local jails because laws required holding them separately from “criminals.”

common for farmers to trade in goods, rather than currency, but goods-in-kind were not accepted as taxes.

Floating currency, not backed by gold or other metal, was a source of great suspicion, particularly because of the frequency that political changes rendered it useless. After the Stamp Act and during the widening breach with Great Britain, Massachusetts and the other colonies lacked a source of hard currency, and so issued bills of credit backed with the questionable promise of redemption either by an as yet unimagined new governmental form, or by the British Government once a new system of representation was established.²⁴⁰ In an interesting twist, the "tobacco standard" was essentially in effect in some parts of Virginia, as stores of tobacco in warehouses insured that (privately) printed notes were redeemable.²⁴¹ While paper currency could easily depreciate, it was in circulation along with numerous foreign coins backed by gold, which tended to gain in value. It is no wonder that the former was plentiful and the later scarce.

The scarcity was far more problematic for everyday people than for government, as the latter's debts could be discharged with the notes but at least the taxation portion of the former's could not. The state governments could manufacture value in the form of printed currency and, despite the very real cycles of inflation and deflation that followed,

240. Massachusetts' experiment with paper money in the 1690s had been the first outside China, save a short lived experience in Quebec. 1. Gordon Tullock, "Trading Citizenship," *Kyklos* 50, no. 2 (1997): 251–252, doi:10.1111/1467-6435.00014, 251.

241. Murray Newton Rothbard, *A History of Money and Banking in the United States: The Colonial Era to World War II* (Ludwig von Mises Institute, 2002).

essentially solve their fiscal problems by fiat. There were limited political checks on this practice, and it destabilized the nascent compact. It also meant a political economy that favored large-scale debtors and currency trader, who benefited from inflation and the premium on hard currency, and disfavored those whose primary debts needed to be paid in this hard currency while they only held notes, such as ex-soldiers, laborers paid in notes and small to medium sized farmers and businesspeople.²⁴² Those who protested the use of paper money, who sought to base currency in labor value, rather than exchange. Indeed, certain types of debtors were in favor of paper money; those with large holdings who could discharge their debts more easily in inflationary times.²⁴³ Those who protested the situation were not, as some have claimed, merely angry about general inequality and private debt, but the building of a monetary system that rewarded capital above labor.

242. A 1779 coastal inhabitant suggests that tensions ran both ways, claiming that Farmers “don’t consider the suffering sea ports, but want all our money, goods, houses & then our Selves to be there Servants [sic].” “Revolutionary letters written to General Pickering” as cited in Frank Edward Manuel, Ward Hunt Goodenough, and Fritzie Prigohzy Manuel, *James Bowdoin: And The Patriot Philosophers* (American Philosophical Society, 2002), 207.

243. For an on-the-ground exploration of tensions between urban merchants and rural yeoman, see George Richards Minot, *The History of the Insurrections in Massachusetts: In the Year Seventeen Hundred and Eighty Six. And the Rebellion Consequent Thereon* (James W. Burditt & Company Franklin’s Head ... Court Street. J. Belcher, Printer, 1810). Minot discusses how taxes and debt enhanced these tensions, include opposition to lawyers as a class.

4.5 Understanding Shays in Context

Shays' Rebellion, despite its place in every high school civics book, has generated relatively little scholarly output. One notable exception is a collection printed as a bicentennial tribute of sorts.²⁴⁴ As these writers discuss, Shays' Rebellion has been recuperated in the years since it occurred, so that some on both the right and left claim it as part of their origin story. However, the actual claims of the participants are not so easily assimilated to contemporary ideology, and they support a vision of democratic life in America that is neither a minimalist state nor a strong central government. Even contemporaries of the event were not sure what to make of it. Far from actual events, they wondered at the causes for this disruption and were apt to blame a lack of political virtue and cohesiveness in citizens, rather than the government.

Holding a civic republican view of citizenship, even when accompanied by skepticism of power, elites in the cities do not consider whether rural activists might have a legitimate claim of their own to make, suggesting that “the mob is headed by some desperate fellows, without property or principle.”²⁴⁵ They also tended to exaggerate the

244. Robert A. Gross, *In Debt to Shays: The Bicentennial of an Agrarian Rebellion* (University of Virginia Press, 1993).

245. In a “Letter from John Marshall to James Wilkinson,” 1787, Marshall reports receiving “conflicting accounts of the motives and views of the insurgents. Marshall considered the possibility that the rebels could either be British spies from Canada, or backed by the powerful Bostonian, such as John Han-

criminal histories of Shays and his cohort, in particular suggesting that they failed in the manly tasks of soldiering.²⁴⁶ This was untrue, given that no less illustrious figure than Lafayette had presented to Shays a sword recognizing his bravery.²⁴⁷ Observers of the conflict assumed the outside forces or criminal minds were at work.

However, some journalists at the time did suggest that Shays was more than a criminal or pawn.²⁴⁸ They even identify the origins of Daniel Shays' activities in a convention of delegates convened to consider the problem of Massachusetts' debt and the role of local courts in the debts of individuals.²⁴⁹ The actions of Shays and company were directed at courthouses and legal establishments, rather than the legislature or other branches. It was with the courts that the townspeople took issue, seeing them as usurping

cock, and this leads him to conclude that even in "the state in civic virtue I had thought inferior to no one," greed and dishonesty may lead to bloodshed.

246. Massachusetts Governor James Bowdoin, also suspected of backing the rebels in a power play against Hancock, presents the Regulators as anarchists in a 1787 speech, dismissing Shays as a soldier who earned no particular honors. Shays' Rebellion could easily be understood as "the agony of James Bowdoin". Frank Edward Manuel, Ward Hunt Goodenough, and Fritzie Prigohzy Manuel, *James Bowdoin: And The Patriot Philosophers* (American Philosophical Society, 2002), 212.

247. Paul Della Valle, *Massachusetts Troublemakers: Rebels, Reformers, and Radicals from the Bay State* (Globe Pequot, 2009), 42.

248. Benson Lossing, "Shays's Rebellion," 1862, <http://digital.library.cornell.edu/cgi/t/text/pageviewer-idx?c=harp;cc=harp;rgn=full%20text;idno=harp0024-5;didno=harp0024-5;view=image;seq=00666;node=harp0024-5%3A1>. This piece reviewed coverage from earlier journalists suggests a slightly more complex view of the causes of the Rebellion, locating the problem in Massachusetts' sovereign debt alongside a diagnosis of "demagoguery" on the part of Shays .

249. *Ibid*, 3.

the democratic role of the populace. Harper's reports the Shays' central talking point was the "undemocratic" status of judges.²⁵⁰ He also adapted the "nullification" theory of State's rights to suit citizens claiming, "they had the right to dispense with all laws that were obnoxious to them."²⁵¹ In other words, citizens themselves had duty to examine and judge the laws of the land, and the judiciary branch was an impediment to this judgment. The reversibility of law on the basis of the decisions of the people was a core democratic principle. Given that many of these protestors had lost their ability to directly elect their representatives because of property holding requirements (and the shrinkage of fortunes experienced in the debt crisis), their claims reflect a demand that their voice be heard, at least in the form of nullification of the rulings of judges in matters of debt.

The words of Shays himself were not widely reported at the time, perhaps because they did not match up with the portrayal of him as an unkempt anarchist, committed to individualistic rejection of the rule of law. Until the famous attempt to take the armory of Springfield, which might have prevented the local militia from detaining the Regulators, Shays focused his campaign on the courts, and at each confrontation his groups petitioned for a stable currency and that their demands be published in Boston and beyond.²⁵² Along with a healthy respect for the power of publicity, this suggests that Shays wanted a shift

250. Ibid, 4.

251. Ibid, 5.

252. Valle, *Massachusetts Troublemakers*, 45.

in the entire regimes' relationship to debt, not merely forgiveness for his own, and understood the connection between dissent and public forums. The calls for nullification promoted by Shays were not, as portrayed by elites, claims about the individual's right to reject laws, but rather the *collective* right to do so. As soldiers and workers, these protesters had supported and paid for the political institutions that were now, in their view, held by oligarchic interests who profited through high finance, while debt-ridden rural counties suffered. One of the few quotes remaining from Shays is from his defense of early actions against courts in Western Massachusetts, which followed months of attempts to advance grievances legally through the Committees of Correspondence that had formed the organizational backbone of the revolution only a decade earlier. Shays defends his Regulators against the charge of anarchy, noting that "we sincerely deprecate the consequences of anarchy," but must secure temporary support for suffering fellow citizens "induced by the ties of friendship and trust, and by, as we trust, the stronger laws which religion indicates, of doing as we would be done by."²⁵³ While this religious natural law appeal may be less attractive to contemporary secular ears, it does indicate that the Regulators had thought about what they were doing and why, and approached the courts as an appropriate target, while also seeking to popularize their understanding of what was owed to average citizens.

253. *Ibid.*, 47.

The majority of primary source documents that remain are records of the battles themselves, rather than the speeches or deliberations of the participants in the battle. It would be nice if there were more records of the aspirations, motivations and arguments of the participants, but little of this information was preserved. In part this may be because historians and generations of civics students have assumed that the Regulators were primarily poor farmers and debtors, and therefore both acting purely out of economic self-interest and illiterate. However, this does not correlate to the actual demographic information about the rebels, which showed that not only debtors or farmers who participated, but entire rural communities in Worcester, Berkshire and Hampshire counties.²⁵⁴ Most strikingly, there was no clear correlation between debt and rebellion.²⁵⁵ While debt issues may have influenced the political climate and Daniel Shays himself, a widespread feeling that the Massachusetts government was beholden to Boston corporate interests was also important.

In petitions and speeches, Regulators affirmed the right to assemble and to give opinions on public measures, and a decidedly negative appraisal of the political economy of the day, including the cost of state government (which itself was a passed-on federal expense), and the currency problems discussed above, including the sorts of punishments

254. Robert A. Gross, *In Debt to Shays: The Bicentennial of an Agrarian Rebellion* (University of Virginia Press, 1993), 3.

255. *Ibid.*, 60.

offered to debtors.²⁵⁶ Local assemblies often predated these petitions where townspeople met to discuss their shared frustrations. One common complaint was that government is attentive to the needs of townspeople in places like Boston and New York, rather than the average people in the hinterland.²⁵⁷ This trope will be repeated throughout the history of American political life, whether in the form of populist uprisings or the urban/rural tensions exposed during national election cycles. The political climate was such that linking "two-penny shopkeepers, usurers, speculators, or any other class of men, that delight to fatten on the distresses of mankind" to the problems of the system was common.²⁵⁸ Yet the insulting tone that many popular newspapers took towards the well off, particularly the classes who were experimenting with finance capitalism, was more than just a critique of personal greed. Rather, the system itself was seen as responding to and codifying opportunities for greed, and thus increasing inequality and distress; one wrote that citizens "who disdained to stoop to foreign tyrants, now bow their necks to internal des-

256. *Ibid.*, 57.

257. Alan Taylor "Regulators and White Indians: Forms of Agrarian Resistance in Post-Revolutionary New England" in Gross, *In Debt to Shays, 145-161*. He suggests the Regulators as holding to a "protection covenant" as in the Mafia, allowing the rule of city elites to continue as long as the "gentlemen" were responsive to the needs of the many. He supports this reading by noting how quickly the Regulators abandoned their cause, and indeed sought clemency. However, this reading seems to fault the protesters for their unwillingness to face down the power of the state militia, and the likelihood that other states would could to the aid of Massachusetts were the insurgency to continue. Furthermore, it misreads the protest as a desire to overthrow the government, when rather they asserted a different interpretation of the Articles- and of the levels of social and economic inequality that were acceptable.

258. Gross, *In Debt to Shays*, 163.

pots.”²⁵⁹ In other words, the perception was that via the expansion of debt, an oligarchy was developing in the name of aristocratic governance of the learned few.

4.6 Regulators as Popular Constitutionalists

The adoption of the odd name Regulators reflects that the protesters saw themselves as merely tinkering with the institutional design and balance of their society, rather than undermining it. While their opponents, including the authors of the Federalist Papers, most notably Alexander Hamilton, asserted that state power and republican citizenship were not incompatible, the Regulators asserted the direct competency of the people in the interpretation of the rights of assembly granted in the Massachusetts constitution.

We might see this sort of competency claim as a type of popular constitutionalism, which is an approach in legal theory that applies populist democratic values to constitutional theorizing, often as part of a critique of judicial review or supremacy. For Popular Constitutionalists, (despite a great deal of debate over the scope and justification for popular review of constitutional law or interpretation) there is no justification for the distance between average people and the constitution.²⁶⁰ Indeed, a central line of exploration of

259. Ibid.,146.

260. Larry D. Kramer, *The People Themselves* (Oxford University Press US, 2006). In this text, Kramer enacts popular constitutionalist and historical revisionist reading of the founding to argue that the Constitution itself expressed the values of self-government and constitutional competency I am locating with the Regulators.

popular constitutionalism suggest that the people, often as part of political contestation, engage in acts of constitutional interpretation from time to time. In this case, they interpret judicial authority as overstepping the bounds of popular sovereignty inasmuch as it allows the unjust expropriation of citizen goods in relation to corrupt debt practices.

The Regulators, perhaps empowered by the space left open by the Articles of Confederation citizenship, claimed this sort of competency. They did not, however, base it in their formal status citizenship or even (solely) their military service. Rather, they rooted their claims in the work they did, as farmers and laborers, and the common set of needs that all humans have. This basis is shown in their assertion of their rights as independent and productive workers, who “earned” their homes and goods. Of course, this independence housed in free labor was opposed to the situation of slaves and women, both groups who were understood to be dependent and without the competency to serve as republican citizens. However, the Regulators and their ilk, despite drawing on racial and gendered understandings of the world which contributed to the limiting (and indeed in some places the revocation) of the franchise for women and even free blacks, had a broader understanding of productive citizenship than that of the classical republican nobleman. The new American citizen was not one of leisure, but rather one who worked for a living and because of this work deserved a voice. The citizen also deserved economic protection as well as political representation, and the controversy over debt and currency reflects this tension, which we might understand as “jockeying for power among the various contending classes: mechanics, artisans, small tradesmen, large landowners, farmers

and merchants.”²⁶¹ The former insight was eventually made part of the American creed, while the latter has merely flared up from time to time.

These elements of the Regulator approach are shown not only in how their approached their activism, via the courts and seeking to make their demands public, but also in their statements of political ideals. We might understand this as a claim that “the American Revolution had legitimized a certain kind of legal activity- namely, extralegal action. To them, extralegal action was, and always was, legal.”²⁶² They even were understood at the time to be more than disgruntled farmers, but of offering coherent opposition. In one of the actions that quelled the rebellion, the action took place inside a church, where the arresting officer took the time to argue, point-by-point, against the previous speech against the government.²⁶³ This would not seem necessary if the protesters were merely hooligans opposed to order. John Adams uses his satirical alter ego, Humphrey PloughJogger, to express this counter-understanding of the events.²⁶⁴ While Ploughjogger

261. Richard S. Pressman, “Class Positioning and Shays’ Rebellion: Resolving the Contradictions of ‘The Contrast’,” *Early American Literature* 21, no. 2 (October 1, 1986): 89.

262. This quote refers to Dorr’s Rebellion in Rhode Island in 1842, which explicitly claimed Shays as theoretical inspiration. Paul M. Thompson, “Is There Anything Legal About Extralegal Action - The Debate over Dorr’s Rebellion,” *New England Law Review* 36 (2002 2001): 384.

263. Robert Hunt, *Ure’s Dictionary of Arts, Manufactures and Mines* (Taylor & Francis, 1999), 89.

264. The Ploughjogger letters appeared print in 1763, 1765 and 1767 and can be found in their entirety in: John Adams and Robert Joseph Taylor, *Papers of John Adams, Volume 16: February 1784–March 1785* (Harvard University Press, 2012). The first letters concern the promotion of hemp as a crop, as well as the Stamp Act, while the later letters are more directly addressed to the problems of farmers and debt.

is illiterate and certainly meant to poke fun at country farmers as well as the Bostonian elite, like most satire this writing contains shards of sharp truth. He says: "I have been greatly abused, have been obliged to do more than my part in the war, been loaded with class rates, town rates, province rates, Continental rates and all rates ... been pulled and hauled by sheriffs, constables and collectors, and had my cattle sold for less than they were worth ... The great men are going to get all we have and I think it is time for us to rise and put a stop to it, and have no more courts, nor sheriffs, nor collectors nor lawyers."²⁶⁵

Unlike Ethan Allen in Vermont, who rejected a partnership with Daniel Shays, Shays did not explain his ideas in writing or public speeches. In a meeting with General Putnam, sent to Governor Bowdoin in a letter, Shays was reported to have said, in response to a suggestion that he would either take over the government or die trying, "My God, I'll never run my country!" and then to assert that his leadership was prompted by a desire to avoid bloodshed and not to gain political power for himself."²⁶⁶ Indeed, the majority of the conversation seems to be about the issue of "court stopping," which seems to me a desire to enforce popular constitutionalism. Others have read Shays as the assertion

265. Embarrassingly, Zinn quotes "Plough Jogger" as if he were a real person. Howard Zinn and Anthony Arnove, *Voices of a People's History of the United States* (Seven Stories Press, 2009), 104

266. Charles Oscar Parmenter, *History of Pelham, Mass: From 1738 to 1898, Including the Early History of Prescott ...* (Press of Carpenter & Morehouse, 1898), 395.

of a physiocratic way of level- housed in private property- rather than a leveler position as understood by the gentry.²⁶⁷

Shays' was more than a rebellion driven by private interest and abdication of personal responsibility to pay one's debts, although this understanding helped those who wanted a new Constitution to make their case.²⁶⁸ It was a challenge to the very presumption that debt and personal responsibility could be so linked, particularly when those who "owed" had to play by different rules than those who did not. Indeed, the very fact that "[t]he immediate result of Shays' Rebellion was consolidation of repressive violence—like that later sanctioned by President Washington to crush the Pennsylvania Whiskey Rebellion in 1794—in the hands of both state and federal government" is a striking reminder of the power of the alternative view.²⁶⁹

And it was a much broader populist movement than its encapsulation as a rebellion or troupe of rebels led by Shays would suggest.²⁷⁰ The hodgepodge of floating and backed currencies, only some of which were accepted as payment for taxes and fines, as

267. *Ibid.*, 90. This was Royall Tyler, American playwright and jurist.

268. Although this was the construction given to it at the time. Indeed, a popular hymn attributed Shays' motives to the influence of the devil himself. It ends: "American let us rejoice, In our New Constitution, And never more pretend to think, of any Revoution" in Parmenter, *History of Pelham, Mass.*, 399-402.

269. Jeremy Engels, "Reading the Riot Act: Rhetoric, Psychology, and Counter-Revolutionary Discourse in Shays's Rebellion, 1786–1787," *Quarterly Journal of Speech* 91, no. 1 (2005): 67

270. Ronald P. Formisano, *For the People: American Populist Movements from the Revolution to the 1850s* (Univ of North Carolina Press, 2008), 43-90.

well as the turn away from localized barter systems, put great pressure on small farmers and workers. These same men were stripped of political rights to vote, and interpreted these trends, quite reasonably, as the instantiation of oligarchical principles centered on urban elites. To protest, they began by using the established forms of the committees of correspondence, and when this failed they attempted direct action through the courts, the most visible arm of state power and the enforcer of debtors prison and other penalties. In this they asked consistently that their claims be heard by the politically powerful, and only when this failed to occur did they take up arms. In doing so, they understood themselves not as anarchist rebels, but as patriotic “regulators” of the same ideals that sparked the revolution. They asked for a fuller, and fairer, share of citizenship for manual laborers and the (moderately) poor, understood as a collective exercise of political power for shared projects.

This might make some readers nervous, given that supporting producerist claims to government support over those who are seen as unproductive, such as the unemployed or welfare recipient, has led to vicious social conflict and stymied development of economic and social rights in the United States. One important difference between the Regulators and those who disdain the 47% is that the Regulators did not reject the unemployed or destitute, but rather argued that the system (particularly the currency system) produced poverty. There were indeed indigent and homeless among their ranks, as well as wealthier folk who supported the principles of the Regulators. However, the central claim was that work, including manual work, was not inimical to good citizenship and neither was

dependence. Even the injured veteran or wage laborer, each of whom had less seeming control over his destiny, deserved a role in politics and society, as well as economic security.

Even urban elites struggled to determine the shape that good citizenship, particularly in relation to the economy and consumption, would take. The non-importation of British goods that had been a fashionable way for upper class women to protest in New England prior to the Revolutionary war carried over into anti-luxury campaigns and commitments to wear simple, American clothes during the same time as Shays'.²⁷¹ While the position of elites has been foregrounded here, this position still in uneasy formation. While it is easy now to see the Regulators in stark contrast with the "Friends of Government," no doubt both sides were struggling to spell out what sort of political sensibilities would be appropriate for a new country.

4.7 Echoes of the Anti-Federalist Papers' Democratic Theory of Citizenship

This same alternative conception of citizenship and collective responsibility for political institutions of average people is reflected in the Anti-Federalist Papers. The Anti-Federalists were a relatively diverse bunch, particularly given that the papers often assembled under that name are presumed to be from at least 20 individual authors. While

271. Mary Beth Norton, *Liberty's Daughters: The Revolutionary Experience of American Women, 1750-1800*, Third Edition (Cornell University Press, 1996). See especially Ch.2.

their individual arguments against the proposed constitution, and the process through which it was created, varied, they did fear the over “federalization” or consolidation of power to a central government.²⁷² Given their preferences for localism, it is no wonder that the Anti-Federalists saw themselves as continuing the conceptual and theoretical legacy began in the Revolution, which rejected distant government in favor of local administration and a loose compact between sovereign states.

Their second central interest was in preserving the participation and access of ordinary people to the government.²⁷³ In particular, the jury, the militia and the assembly, at the local and state level, were portrayed as schools of democracy. Interestingly, this concern for the participation of everyday citizens extended to concerns about specialization and professionalization, especially of the military and political professions. While the Anti-Federalists understood that direct democracy was unlikely, they wanted representative bodies that mirrored the general populace, especially the middle class, as fully as possible.²⁷⁴ As the “Federal Farmer” writes in his 9th letter, larger electoral districts are

272. Thus they considered their own position properly “federal”, in that this term designates the sharing of power and responsibility between central and more local governments. That the federalists got to this name first is an early example of how important definition the terms of the debate is in American politics.

273. They were “especially concerned with preserving for ordinary citizens the ability to participate in government.” Akhil Reed Amar, “Anti-Federalists, the Federalist Papers, and the Big Argument for Union,” *Harvard Journal of Law & Public Policy* 16 (1993): 113.

274. Herbert J. Storing, ed., *The Complete Anti-Federalist* (University Of Chicago Press, 2007),18.

likely to increase the prominence of wealthy politicians, because the everyday good qualities of citizens will not garner recognition at large. Instead of centralizing government, particularly away from the rural districts where the Regulators emerged from, the new state should shore up local politics and promote the ability of average citizens to contribute.

Furthermore, the Anti-Federalist papers were directly concerned with economic inequality and political economy that promoted finance.²⁷⁵ In some of their writings, the association of Republican government with equality is strong, countering arguments that competing private goods (or factions) will lead to a public good. Centinel, for example, writes: “A republican, or free government, can only exist where the body of the people are virtuous, and where property is pretty equally divided.”²⁷⁶ Well-read in republican theory such as that of Montesquieu, the Anti-Federalists did worry that the virtue of the people would not be sufficient, on its own, to prevent despotism, but argued that their competence would be increased by participation.²⁷⁷ This interest in the relationship between economic and social equality with political stability and freedom holds in the work of various *nom de plumes*. Still they were themselves property owners concerned about

275. Jennifer Nedelsky, “Democracy, Justice, and the Multiplicity of Voices: Alternatives to the Federalist Vision,” *Northwestern University Law Review* 84 (1990 1989): 232. thus argues that the Anti-Federalists offered a developed and coherent alternative to the constitutional consolidation, housed in the self-government of ordinary people

276. in David Wootton, ed, *The Essential Federalist and Anti-Federalist Papers* (Hackett Publishing, 2003),.65

the protection of property, and their arguments are not as far from those of the Federalists as Shays is from both.

4.8 Using Simone Weil to explain the Regulators invocation of Needs over Rights

In the American context, the assertion of fundamental needs as untouchable by public and private authority has most often taken the form of a claim to a "right". While rights language had a certain resonance with Shays' followers, they reasoned more broadly and directly from the needs of individuals and families to exist, and remain housed, clothed, fed and healthy. For example, one of the first protests was arranged around a harvest day, and a communal feast occurred as part of the political action.²⁷⁸ This sentiment was echoed in the writing of Daniel Grey, who explained their motivations as critiques of the practice of debtor's prison, which "thereby a reputable body of people rendered incapable of being serviceable either to themselves or the community."²⁷⁹ Debtor's Prisons were problematic because they hurt the community, not just the individual, supported also by his criticism of the suspension of the writ of Habeas Corpus, which for

277. Ibid., 44.

278. Gross, *In Debt To Shays*, ' 34

279. Steven L. Danver, ed., *Revolts, Protests, Demonstrations, and Rebellions in American History: An Encyclopedia* (ABC-CLIO, 2010), 223.

Gray meant that there was no one “to assert and maintain the rights of the people.”²⁸⁰ These rights should be understood as collective rights to a productive and healthy community, not independent rights as in our contemporary idiom. The idea that Shays,’ and indeed much early rebellious or militia action, was about collective rights is newly important given the importance of originalism in arguments about the Second Amendment, which itself reflects the linkage of militias and community rights.²⁸¹

While the Regulators did, as mentioned above, make use of a natural law basis for rights and justice, they interpreted this natural law to grant neither negative nor positive rights, at least as famously formulated by Isaiah Berlin. Indeed, by "right" they did not mean something asserted against a government, or a sphere of protection in which government cannot interfere, but rather the power of communities and individuals to preserve and extend themselves. This is not quite a positive right, either, because the militia, which stands in for the local community, is the bearer of the right, not individuals. This community is not fully communitarian, in that it is both rooted in place and created, like any social movement.

280. Ibid., 224.

281. For example, interpreting recent Supreme Court Decisions as protecting an individual right to insurrection leans on understanding Shays’ Rebellion as an individualistic mob action. For an example of such a reading, see: Carl T. Bogus, “Heller and Insurrectionism,” *Syracuse Law Review* 59 (2009 2008): 254.

Simone Weil's ideas about needs help move us beyond this distinction, as she writes in of the primacy of needs, spiritual and physical, over rights.²⁸² Indeed, Weil's concept of "rootedness" goes a long way in helping us see the types of radical claims Shays advanced.²⁸³ Uprootedness is linked to Arendt's category of superfluous life through the shared experiences of refugees and the unemployed; the later situation Weil calls "uprootedness raised to the second power."²⁸⁴ To be uprooted, for Weil, is to lack a community in which one can participate meaningful, to which one has duties, but also means a lack of work that one can love. Weil is thinking about the working class in France, whose experiences of industrialization and war form the basis for her arguments that work must be imaginative and focused on the needs of the worker, rather than driven by technological progress or the decrees of the uprooted urban classes.²⁸⁵ However, the same dynamics of increased pressure on workers to join the formal labor force, and decreased control over their own workday, existed in the long drive to industrialization in the United States. Just as the World War, declines in farming and changes in production produced rootlessness for the working class in France in the 1930s, the Revolutionary

282. Simone Weil, *The Need for Roots: Prelude to a Declaration of Duties Towards Mankind* (Psychology Press, 2001).

283. "A human being has roots by virtue of his real, active and natural participation in the life of a community which preserves in living shape certain particular treasures of the past and certain particular expectations for the future. Ibid.,43. While she uses the term natural, she is careful to indicate that this is in relation to the multiple sources of potential roots, rather than a naturalized commitment to a particular group or birthplace. Ibid.

284. Ibid., 45

285. Ibid., 59.

War, the decline of farming, and urban expansion of manufacturing and trading produced the citizenry who made up the Regulators.

Weil's solutions are not fully developed in *The Need for Roots*, but they center on the development of meaningful work and the need for collective political action to create the institutions that can sustain a rooted life, while providing the space individuals need to act politically. This resonates with the project of Shays' Regulators, who sought to clear a space for their own political action through direct protest and contestation of the power of the courts. While they failed, their vision remains a viable current in our shared historical experience of citizenship and politics. Their version of self-government was one in which not only distant kings were not allowed to determine how local resources were spent, but even state capitals, and their representatives, the Courts, were rejected as democratic authorities. Instead, communities should themselves be able to determine what counted as currency, and also what levels of taxation were permissible. Certainly, this is not a vision amenable to building a nation-state, but it is a vision that sees the ability of individuals to participate directly as key to democratic citizenship.

4.9 Ghosts of Shays in the Progressive Expansion of Good Citizenship

The claims of Shays and his contemporaries are a model for political membership claims in the work that actual citizens do, and connecting these claims both to constitutional competency and needs, each understood in relation to a networked community rather than individual right. This claim, although not central to the founding institutions,

continues to resonate throughout United States history, even as slavery and westward expansion take center stage. This tension bubbles to the surface in times such as the Populist Farmers' movement in the 1860s,²⁸⁶ and through the struggles of Reconstruction era blacks to establish themselves as fully respected citizens.²⁸⁷ It would take until the 1900's for men like Shays to gain full membership in the political space, and then under the aegis of progressive reform, which worried that such citizens were unfit. The exclusion of workers from status citizenship would not last, although their enfranchisement would create new paradoxes of political membership, discussed in the next chapter. However, the normative ideal of citizenship remained tied to an independent, masculine

286. The classical treatments of this experience are Lawrence Goodwyn, *Democratic Promise: The Populist Movement in America* (Oxford University Press, USA, 1976); Lawrence Goodwyn, *The Populist Moment: A Short History of the Agrarian Revolt in America* (Oxford University Press, 1978) and Michael Kazin, *The Populist Persuasion: An American History* (Cornell University Press, 1998). For many commentators, populists were seen as resistant to industrialization, as in Bernadette Brexel, *The Populist Party: A Voice for the Farmers in the Industrialized Society* (Rosen Classroom, 2003). For an argument that the Populist were actually forward looking and welcomed technology, see Charles Postel, *The Populist Vision* (Oxford University Press, 2007). Alternately, the populist movement can be explained as the Matthew Hild, *Greenbackers, Knights of Labor, and Populists: Farmer-Labor Insurgency in the Late-Nineteenth-Century South* (University of Georgia Press, 2007). For an intriguing discussion of the relationship between the populists and the larger currents of American political theory, which sees the populists as an alternative to both capitalism and communism, see Christopher Lasch, *The True and Only Heaven: Progress and Its Critics* (W. W. Norton & Company, 1991).

287. Reconstruction Citizenship is a wide field, but some work that is more applicable to thinking about work and reconstruction includes the Shklar, *American Citizenship* and Glenn, *Unequal Freedom*, a consideration of race and gender in relation to 14th amendment citizenship. For the classic overview of reconstruction, see Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (Oxford University Press US, 1995); Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (HarperCollins, 2002).

subject with as little debt and dependency as possible. These classical accounts of citizenship, even as reformulated by the social contract theorists to apply to those who labored, at least if they held property, were finally stretched to their limit by the rapidly industrializing world around the turn of the 20th century, and needed reform. Progressive activists and theorists attempted to embrace dependence by asserting the commonality of the “political body” and meet need by developing social programs, but they unthinkingly retained and even built on the ideal of masculine independence to contain and manage family and social life, which was perceived as under threat of massive dissolution.

The pairing of the Shays and Progressive adaptation of mass citizenship is important because it reminds us that in attempting to correct an exclusion, in this case the average people from political power, states and reforms often rely on other problematic schisms, in this case gender. A similar story could probably be told about the relationship of race to understandings of worth, desert and welfare in the United States. For an early 20th century Daniel Shays to become a full member of society, he needed to be regulated by the pressure to maintain a steady job to support his family and himself in the city, where the great trio of urbanization, immigration and industrialization altered existing social bonds. Although the worker citizen, even if poor, was welcomed into the political space through the mechanism of party machines, he was also subject to reform projects in his neighborhood and workplace. As Taylorism and urban planning, not mention social work, developed, elites worked out their concerns about mass culture and mass democracy, fretting that the tendencies of the average person would undermine the lofty ideals of

a democratic nation. Perhaps most problematically, they linked the new working citizen with a highly gendered division of labor, tying intimately together the workingman with citizenship, efficiency, speed, stoicism and effort. With production ever more separated from the home, women and children were more dependent on their husbands and fathers, thus producing the single breadwinner family that is still thought of as natural. Citizens had to be independent, and this independence was linked to other masculine virtues at the expense of women, who suffered materially and spiritually from this distinction, particularly when they or their partners did not fit these gender norms. This shift, which hearkened back to the yeoman model through the suggestion that each working man could eventually become a homeowner, and thus propertied, put immense pressure both white working men and those who did not fit neatly into this normative ideal, such as women, non-whites, ex-slaves and foreigners. There were of course progressives who resisted impulses to social control and give more useful material for bolstering democratic citizenship today.

The legal limits of status citizenship changed along with the labor market in the late 19th and early 20th century. In the United States, nearly universal white male suffrage, via the elimination of property requirements, occurred between 1820 and 1850.²⁸⁸ The “split labor market” generated by the continued existence of slavery meant that even

288. Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (Basic Books, 2001).

white laborers could be defined in opposition to an inferior group, conceived as unworthy of the social and political standing granted to even poor white potential-wage earners. This relationship continued after slavery ended, preventing political coalitions among the worse off and alienating the poor whites of the south such that they become their own minority group with an insular culture and strained relationship with the ruling classes.²⁸⁹ Still, by the turn of the century, all of these groups were technically enfranchised and, indeed, the reconstruction era participation of black male citizens was of course quite high. Even women, the subject of the next chapter, neared the vote. The franchise, and thus also the political public sphere, was now much closer to its claim to equal access, if still hemmed in by custom, cost of access, sexism and racism.

It is this political landscape, coupled with a United States growing more urban, industrialized, mobile and wage-based by the year, that must be traversed by progressive political reformers in the 1920's and early democratic theorists alike. They are in a sense coming back up against the original problem posed by Aristotle; how can citizenship and labor be reconciled, if at all? They faced this question with a commitment to broad participation in both democracy and the labor market. It is no wonder that the central task of progressivism took up was making the masses fit for democracy, through both educative and coercive means. In this context, it is no wonder that "the old ideal of a commercial

289. Wayne Flynt, *Dixie's Forgotten People, New Edition: The South's Poor Whites*, New Edition (Indiana University Press, 2004).

republic united by a common class of self-employed households...slowly lost ground to the new vision of an industrial order united through the kinship of social self-hood.”²⁹⁰ In other words, the new economy has created a new citizen, or rather reformulated what sort of work most were doing, and so citizenship norms had to adapt. From the earlier conception, the theorists retained the privileged status of the good citizen, and the requirement that he be educated and invested in the political order. This was a difficult, given the very real low literacy rates among American citizens, and thus required that progressive theorist buttress their arguments with calls for massive education and public welfare projects.

The people which Progressive activists and thinkers hoped to help, or institute, this overlapping vision of work and citizenship were indeed working in a different way from their ancestors, in the United States or Europe. The 19th century is characterized by decreases in farm population, industrial development of railroads and cities, and the growth of mechanized production.²⁹¹ By the 20th century, farm labor occupied less than

290. Jeffrey Sklansky, *The Soul's Economy: Market Society and Selfhood in American Thought, 1820-1920* (The University of North Carolina Press, 2002), 178

291. While the growth of industrialization is associated (correctly) with the 20th century, the share of farm workers starts following by 10 percentage points per decade in 1820. M. Abramovitz, *Resource and Output Trends in the United States Since 1870* (NBER, 1956). The number of workers employed for wages tripled during this same period David R. Meyer, *The Roots of American Industrialization* (JHU Press, 2003), 126. In the latter half of the nineteenth century, with the widening of the railroad network, the accelerated growth of metropolitan areas, and, in America, the mechanization of many complicated crafts, the influence of mechanization was everywhere. Sigfried Giedion, *Mechanization Takes Command, a Contribution to Anonymous History* (Oxford Univ. Press, 1948).

half of the labor force, the vast majority of who were non-black, adult men.²⁹² Workers were also characterized by a racial dichotomy. On one hand, the nativism that characterized this time period was in full effect, while on the other the cheap labor of marginalized groups such as Italian, Irish and German immigrants was required to fuel the growing industries of food processing, steel, and manufacturing. However, these groups claimed the right to higher wages and levels of inclusion on the basis of their skin colors, actively repressing African American workers and arraying the white working class in opposition to black labor.²⁹³ These racial tensions among the working class are a key element to understanding citizenship struggles in this time period.

Work in the period of rapid industrialization was characterized by increased mobility, a trait not necessarily prized by citizenship theorists who sought close-knit communities of neighbors.²⁹⁴ Mobility reflects the desires of employers to maximize efficien-

292. By 1900, only 38% of the labor force worked in farms. Donald M. Fisk, "American Labor in the 20th Century," *Compensation and Working Conditions* no. Fall 2001 (2001), <http://www.bls.gov/opub/cwc/cm20030124ar02p1.htm>. Children composed about 6% of the labor force, while women made up 10% and African Americans about 14% (ibid).

293. This privilege can be characterized as the "wages of whiteness," even as the definition of white changes throughout time. David R. Roediger, Mike Davis, and Michael Sprinker, *The Wages of Whiteness: Race and the Making of the American Working Class (New Edition)*, New Edition (Verso, 2007). David R. Roediger, *Working Toward Whiteness: How America's Immigrants Became White: The Strange Journey from Ellis Island to the Suburbs* (Basic Books, 2006).

294. Rosenbloom (2002) argues that the pressures of the transatlantic labor market, as well as the struggles of the south to adjust to a changing economic reality, meant that this time period was characterized above all by mobility in search of work. J. L. Rosenbloom, *Looking for Work, Searching for Workers: American Labor Markets During Industrialization* (Cambridge Univ Pr, 2002).

cy and find skilled workers, yet we might also see these qualities as privileging a certain type of worker and citizen.

Along with a willingness to move for work, the worker, more and more, was expected to be flexible and malleable.²⁹⁵ Unorganized and unskilled workers bore much of the weight of the advance of scientific management in the factory.²⁹⁶ The new system demanded that workers produced at higher speeds and with increased subordination to management. Cheap, easily trained and replaceable workers who came predominantly from immigrant groups replaced skilled labor.²⁹⁷ “Scientific management” gave the appropriate cover to marginalize skilled, and potentially powerful, workers and instead employ more vulnerable operatives, who were unskilled, and often women or immigrants.²⁹⁸ All of these developments made developing citizen workers very difficult, as working conditions deemphasize the very political capacities needed to act publicly.

The worker, while still likely to be white or moving that direction through the

295. David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865-1925*, First (Cambridge University Press, 1987). This masterwork provides insight to the composition of the labor market and how the struggles of laborers to cope with industrialization were limited by the efforts of business and government to run society scientifically. Montgomery argues that the standardization that Taylorization required limited the ability of workers to act creatively; in other words, as they were made citizens through their regular work, their ability to control or even alter systems around them diminished.

296. Samuel Haber, *Efficiency and Uplift: Scientific Management in the Progressive Era, 1890-1920* (University of Chicago Press, 1964).

297. Bruno Ramirez, *When Workers Fight: The Politics of Industrial Relations in the Progressive Era, 1898-1916* (Greenwood Press, 1978).

298. Montgomery, *Fall of the House*, 134

Assimilation process was more diverse than the classical model, which put certain strains on progressive attempts to adopt a citizenship developed on the civic republican model of independent homeowner. The worker no longer was likely to have the leisure and education, not to mention private family space, from which to develop political activity. Instead, the worker needed the intervention of elites in the form of social workers and activist, as well as the developing welfare state, to insure that he or she was a healthy member of the social body. This in part explains the struggle of Progressive activists to ameliorate social conditions for the poor.

4.10 The Taylorization of Progressive Citizenship

Many progressive theorists saw industrialization as hailing a new age of social solidarity, not to mention nationalism. The argument was that: “we pass over from unconscious social cooperation to conscious social cooperation.”²⁹⁹ This conscious social cooperation extended to the economic where, “civilized people have changed their ways of doing their work.”³⁰⁰ Society thus has a duty to recreate its economic systems so that a

299. Richard Ely, “The Evolution of Industrial Society,” in Eldon J. Eisenach, *The Social And Political Thought of American Progressivism* (Hackett Publishing, 2006), 54. For Ely, growing material interdependence would lead automatically to the rational ordering of society, just as industrialization and automation allowed for the rationalization of the workday

300. Albion W. Small, “The Social Gradations of Capital,” *American Journal of Sociology* 19, no. 6 (May 1, 1914): 722. Small goes on to say that the common project of contemporary work shows that capital should be seen as a “progressively social endowment” rather than private property, and that current economic distributive patterns are inherently unjust. *Ibid.*, 725.

wider range of individuals can be free and fit for citizenship. Thus, the elimination of poverty must occur for progress to follow, because there are no differences between the disadvantaged and the rest of the people “which cannot be rapidly obliterated” by the new effort which he called “social work.”³⁰¹ All of the theorists saw work, and citizenship, as coming under rational and scientific principles.

Indeed, there much in the work of Frederick Winslow Taylor and other reformers of workday processing that sounds eerily similar to the calls of Progressive thinkers to order and elevate the slums.³⁰² Of course, Taylor himself saw the individual factory worker as too stupid to understand the broader implications of his task, whereas the rhetoric of many progressives, and activities of some like Jane Addams and John Dewey, saw the potential for citizenship and freedom for all (or most...) people. Taylorism refers to the general trend of “scientific management” in the industrial and office workplace, extended also into how the tasks of housewives were changed by new technology. Taylorism also featured prominent “time-study” type assessment where each task was measured and standardized, so that the most efficient ordering of steps could be adopted. These ideas were also applied to the spaces of the home provides a fascinating case study for

301. Simon N. Patten, *The New Basis of Civilization*, ed. Daniel M. Fox, First Edition (Belknap Press of Harvard University Press, 1968), 69.

302. Frederick Winslow Taylor, *The Principles of Scientific Management and Shop Management* (Routledge/Thoemmes Press, 1993). The principles of Taylorism built on the Fordist techniques of divided assembly line labor such that the broader organization was conceived through “workflows” and the deconstruction of tasks into small segments which could be parcelled out (1911).

subtle ways in which social change occurs; her own presentation of her task starts from “the personal attitude of the woman toward her work.”³⁰³ Rationality, market share, order and efficiency were all hallmarks of the worker inside and outside of the home. Furthermore, the goal of scientific management was to fit the worker to the larger organization, be that the home or factory.

Progressives sought to do more than produce effective housewives and workers, but they promoted the same values in their writings on education, social change and settlement work, particularly the idea that the individual must be made to fit the collective. For many, “the object of education is to fit children into the life of the community.”³⁰⁴ John Dewey defends the absolute sovereignty of the individual citizen against elitist concerns that the mass subject is incapable of self-rule with the claim that “the individual is society concentrated.”³⁰⁵ This is because “the good consists of friendship, family and political relations, economic utilization of mechanical resources, science, art, in all their

303. Fredrick, Christine, “The New Housekeeping,” 1913, <http://nationalhumanitiescenter.org/pds/gilded/progress/text4/text4link.htm>, 6. That is to say, the primary task of the consultant is to promote attitudes of efficiency, rationality and to insure that “to attain mastery and independence” over work and life. Ibid.,9. This call for independence and rationality with the ability of women to purchase goods. See: Janice Williams Rutherford, *Selling Mrs. Consumer: Christine Frederick and the Rise of Household Efficiency* (University of Georgia Press, 2003).

304. Mary Parker Follet, “Training Democratic Citizens” in Eisenach, *The Social And Political Thought of American Progressivism*, 106. Her goal was to develop community centers focused on the model of Hull House in each neighborhood, so that adults and children could learn democratic values of interdependence and duty to the collective through shared experiences and self government of the club itself.

305. John Dewey, *The Early Works of John Dewey, 1882-1898: 1882-1888 : Early Essays and Leibniz's New Essays Concerning the Human Understanding* (SIU Press, 1969), 237.

complex and variegated forms and elements.”³⁰⁶ The good citizen, for Dewey, is like the good citizen for earlier theorists, but with the addition of the value of efficiency and scientific rationality. Jane Addams went perhaps furthest in attempting to broaden citizenship without forcing citizens into wage slavery, or household drudgery, but instead focused on their full range of needs. Addams’ social theory comes out of her experience founding and living at Hull House, a social settlement in the immigrant heavy world of Chicago’s Back-of-the-Yards neighborhood. Her theory is perhaps most immune to the Taylorization of citizenship in that she adamantly demands that immigrant’s literary and cultural needs are just as important as their material ones, and furthermore that workers need more skills than those required by their jobs.³⁰⁷ For Addams, the task of democratic renewal is inherently extended to all citizens as part of the social organism, and her ultimate, rather utopian, goal seems to be the extension of a classical ideal of education and citizenship to all. This vision was broadly adopted by the American education system.³⁰⁸

306. John Dewey, *Democratic Ethics* in Eisenach, *The Social And Political Thought of American Progressivism*, 77

307. “...if in a democratic country nothing can be permanently achieved save through the masses of the people, it will be impossible to establish a higher political life that the people themselves crave; that it is difficult to see how the notion of a higher civic life can be fostered save through common intercourse; that the blessings which we associate with a life of refinement and cultivation can be made universal and must be made universal if they are to be permanent” Jean Bethke Elshtain, *The Jane Addams Reader* (Basic Books, 2001), 80.

308. This aligns, of course, with the development of a nationwide civic education program in the rapidly expanding public school system; in 1916, a required “community civics” class was instituted with the explicit goal of a shared civic identity informed by the emerging social sciences David Jenness, National Commission on Social Studies in the Schools (U.S.), and American Historical Association, *Making Sense of Social Studies* (Macmillan, 1990), 73. Citizenship was added in 1918 as one of the seven goals of the

The tension between citizenship was reformulated as a task that could be solved through education, which would produce good citizens, who would “devote themselves to the duties of good citizenship and to the arousing of the social energies which too largely lie dormant in every neighborhood given over to industrialism.”³⁰⁹ Good citizenship could no longer be associated with nobility, or even property ownership in the classic sense, but instead with the order of the factory and the relative independence of a family wage. Indeed, the tension between what a citizen ought to be and the actual inhabitants of American cities no doubt led in part to the rise of elite theories of democratic representation, where the role of the citizen was reduced to occasional preference indicator. That progressive theorists wanted to hold on to the notions that citizens are the heart of democratic legitimacy, supported by social and educational programs, was both admirable and lamentable, given the way it legitimated a program of social control. Still, thinkers like Addams provide glimpses of how classical citizenship could be adapted for an industrializing nation, through the rejection of distinctions between manual and intellectual labor, and demands that human needs for culture, education and literature exist sim-

secondary education system. National Education Association, “Cardinal Principles of Secondary Education,” 1918.

309. Addams, in Eisenach *Social and Political Thought*, 84. She links this task to “critical thinking” 85, “self-realization,” 87 and the meeting of needs for material things, familial support, personal growth, companionship, freedom from fear. 91-92. Addams saw, like Weil, common experiences of need as a fundamental equalizer. Good citizens, for Addams, are workers both in their daily occupations and in terms of the effort they must put in to constantly improve themselves as citizens and family members.

ultaneously, rather than after one's basic life is supported. She rejects the demand that workers be left out of the political community because they lack the language or other skills, while also refusing to succumb to temptations to engineer the lives of the working class. Instead, she develops and indeed lives a practice of rooted community, where the indigenous needs and interests of the community are foregrounded.

4.11 Rereading *Lochner* and The Right to Work as Collective and Constitutive

The tensions in American citizenship theory and practice over the nature of work, and whether it qualifies or disqualifies one for democratic decision-making, are also on display in the Supreme Court's struggles to limit government's use of the commerce clause to interfere with the economy. *Lochner v. New York* (1905), is nearly as reviled as *Plessy v. Ferguson* (1896) or *Dred Scott v. Sanford* (1857), at least in the legal academy. *Lochner*, a bakery owner, ran afoul of a New York law which prohibited bakery employees for working over 60 hours a week or 10 per day, and fined proprietors who allowed them to do so. The U.S. Supreme Court overturned lower courts' decisions to overturn this fine, ruling that the 14th amendment protected a substantive "right to contract" which was not outweighed by the stated purpose of the law, which was the health of bakers. The case gave its name to an "era" which only came to a close with the deference to the legislative branch signaled in *West Coast Hotel Co. v. Parrish* (1937), and the infamous "switch in time that saved nine," a reference to the move of Owen Roberts to allow

Franklin Delano Roosevelt and the legislative branch to more heavily regulate the struggling economy.

Lochner is a problem for liberal legal scholars, because it avows that the 14th amendment guarantees are more than procedural, in this case extending to the right to work. This concept has recently gained prominence as a way of applying protection to fundamental rights or protecting minorities, a seeming paradox for opponents of *Lochner*, who might also have political commitments to the New Deal.³¹⁰ *Lochner*, however, can and has been seen in a different light, if we let go of an attachment to the Warren Court or the New Deal as the only possible bulwarks of a just democratic order.

Lochner is central to constitutional scholars' understanding of the New Deal, and the Warren Court use of the commerce clause in Civil Rights cases, and thus considerations of its role tend to focus on the limits of federal power. Because *Lochner* type restrictions on the ability of government to regulate the economy are in contrast to New Deal economic policies as well as much government action that follows, it has been designated part of the "anti-canon" of cases legal scholars love to hate.³¹¹ However, con-

310. It has been suggested that the great struggle of contemporary liberals is to develop a theory of jurisprudence that produces *Brown v Board of Education* (1954) and not *Lochner*. Professor Laura Kalman, *The Strange Career of Legal Liberalism*, 1st Edition (Yale University Press, 1996). We might add to this formulation the need to also protect the New Deal.

311. Jack Balkin explores the meta history of *Lochner* as it has been perceived by legal academics, through the concept of a legal "canon" he and Levinson) observe, which also implies the existence of an "anti-canon" of disgraced cases. Richard Primus, "Canon, Anti-Canon, and Judicial Dissent," *Duke Law Journal* 48, no. 2 (November 1, 1998): 243–303; Jack M. Balkin and Sanford Levinson, *Legal Canons*

servative (generally libertarian) and liberal scholars have begun to question the status of *Lochner*, the former in defense of its doctrine of rights to contract³¹² and the latter through historicist constitutionalism.³¹³ *Lochner* is of such scholarly interest because it brings both normative arguments about the relationship of economic and political forces and debates within constitutional theory about the proper role of judges, as well as overarching arguments about how constitutional adjudication should or does occur.³¹⁴

The paradox of a Supreme Court ruling that might be (seen through an historicist lens) correct in its own time, but incorrect in our present time (and therefore overturnable) requires an accompanying theory of liberal constitutionalism that sees “the duty of

(New York University Press, 2000) Balkin notes that while *Lochner* was for a long time such a prominent member of the ‘anti-canon’ that John Hart Ely could summarize his critique of *Roe v. Wade* by accusing it of “lochnering,” setting off years of attempts to distinguish the two by constitutional theorists. *Ibid.*, 689.

312. Importantly, extended to blacks and women in the 1920s. Howard Gillman, *The Constitution Besieged: The Rise and Demise of Lochner Era Police Powers Jurisprudence* (Duke University Press, 1993).

313. Jack M Balkin, “Wrong the Day It Was Decided: *Lochner* and Constitutional Historicism,” *Boston University Law Review* 85 (2005): 677. Balkin calls Howard Gillman’s as a “New Institutional” approach to historicism, see :Gillman *The Constitution Besieged: The Rise and Demise of Lochner Era Police Powers Jurisprudence*, and also Bruce Ackerman, *We the People, Volume 1: Foundations* (Belknap Press of Harvard University Press, 1993) and Owen M. Fiss and United States. Permanent Committee for the Oliver Wendell Holmes Devise, *Troubled Beginnings of the Modern State, 1888-1910* (Cambridge University Press, 2006). The conservative counterpoint is now summarized in David E. Bernstein, *Rehabilitating Lochner: Defending Individual Rights Against Progressive Reform* (University of Chicago Press, 2011).

314. For example, the court in *Planned Parenthood v. Casey* (1992) on the issue of *stare decisis* differentiates between *Plessy*, which the court claims was always wrong and *Lochner*, which instead is portrayed as correct at the time and merely made outdated by both the advances and crises of industrial capitalism, signaled most decisively by the Great Depression. According to their reasoning in *Casey*, it was assumed in 1905 that the market was fair and able to provide for the basic needs of the working population, but by 1937 this had become patently false.

all actors, including judges, to change their interpretations of the Constitution to reflect these changing circumstances.”³¹⁵ Living Constitutionalism is thus intimately connected to theories of constitutional change that are not reliant on Article V amendments, whether they occur through populist movements combined with transformative leadership, or partisan entrenchment formed through intrabranched dynamics.³¹⁶ All of these theories stress the complex interdependence of legal norms, social movements and partisan politics. They also signal that, despite the seemingly more important “rights revolution” of post-Brown courts, the symbolic power of the New Deal or social welfare state more broadly is not exhausted. Indeed, it is only the libertarian Bernstein who is willing to argue that *Lochner*’s substantive due process protection of a “right to contract” as understood in the case is sensible, even if post-Carolene products applications of substantive due process are more common.

A rejection of *Lochner* seems on its face to be an embrace of New Deal era involvement in the economy, but it is also a claim about the relationship between labor and capital. Labor markets operate on principles that do not match up with the assumptions of classical economics, whether for reasons of asymmetrical information, the downward wage pressure of high unemployment, the inseparability of labor power from one’s body,

315. Balkin, “Wrong the Day It Was Decided.”,698

316. Ackerman, *We the People, Volume 1*; Jack M. Balkin and Sanford Levinson, “Understanding the Constitutional Revolution,” *Virginia Law Review* 87, no. 6 (October 1, 2001): 1045–1109, doi:10.2307/1073949.

or the lack of tenable options for alternate sources of subsistence, whether this lack of option is due to a thin or non-existent welfare state or lack of resources or skill needed to maintain oneself 'off the grid.' One of the closest analogues to a *Lochner* style "right to contract" today is the "right to work" legislation that is active in over 20 states, and one of the most powerful limitations on union power in the United States. Indeed, the Taft-Hartley act of 1947 that permitted states to effectively ban the closed shop workplace has been the target of a wide range of activists, including catholic workers and Occupy Wall Street.³¹⁷ While liberals acknowledged (and, if they are left enough) may deplore the move by Samuel Gompers and other union leaders to develop a space within the capitalist order, rather than contest it in search of a more socialist political space, they nonetheless are generally unwilling to let go of the historic and powerful association between unions and progressives.³¹⁸ This is a mistake, but not because workers in all sectors are not central to democratic renewal. Indeed, I am arguing that this is precisely what they are. However, the set of conceptual (and activist) tools developed around union organizing in the early 20th century, and the 19th century social thought on which much liberal theorizing still dwells, is overly bound to a static and unrealistic picture of unions, and of work.

317. Nelson Lichtenstein, "Taft-Hartley: A Slave-Labor Law," *Catholic Univeristy Law Review* 47 (1998 1997): 763.

318. The act was "a raw expression of power" on the part of the state, which framed the eventually 1950 treaty in Detroit wherein automakers, unions and the state agreed to a set of bargaining procedures and benefits for workers in exchange for a virtual end to contestation on the part of union members. Daniel Bell, *The Coming of Post-industrial Society: a Venture in Social Forecasting* (Basic Books, 1976).

In particular, factory and the male breadwinner loom too large in the shared imagination. Most workers in the global north, and even a great deal of workers who live in the global south, are not factory workers, and those who are in manufacturing tend to work in jobs which defy easy categorization as skilled or unskilled, given the likelihood that they will work with complex machinery and robotic equipment. Progressives need to create new sorts of unions that work for people in the home, unemployed or freelancing³¹⁹, if they want to advance the citizenship claims of workers.

Lochner is a case about labor and its relationship to rights, the central way that relationships between the governed and government are understood in the U.S. context. Do workers have the “right” to work as many hours as they want? Asked in this way, it is difficult to see how the Justices could say no, and contemporary examples of “right to work” legislation have all but destroyed unions today. But, what if the question of *Lochner* is reformulated to be about *need* - what do individuals need, not just to stay alive, but also to fully take their place as governing members of the American political body? What if the “right to work” was not understood as a negative right to make contracts, but rather a substantive and communal right that accrues to the needs of the community? The as-

319. New forms of union organizing are emerging, such that “Today, the Freelancers Union is one of the nation’s fastest-growing labor organizations, with more than 200,000 members.” Steven Greenhouse, “Freelancers Union Tackles Concerns of Independent Workers,” *The New York Times*, March 23, 2013, sec. Business Day, <http://www.nytimes.com/2013/03/24/business/freelancers-union-tackles-concerns-of-independent-workers.html>.

sumption is that the alternative to an unregulated labor market is social dependency or class warfare. But if there are other alternatives, we can advance them if we consider the “right to work” as a right to broad ranging social and political membership.

The constitutional vision of *Lochner* as decided is of a nation of free individuals, trading their labor on the open market, as much of it as they please for the price that suits both parties, who through this market transaction preserve the independence and dignity necessary to perform also as citizens. Work, for *Lochner* and for some of the progressives, qualifies one for citizenship. But this work must be free- that is, part of a labor contract imagined as purified from the influence of ascriptive characteristics- and it must correspond to the Taylorist sense of order and rationality. To actually support a notion of a free choice to work, much more is involved than the bare assertion of such a right. Indeed, what is needed are supportive networks and constitutional maintenance of people and institutions. If New Deal Liberals accepted substantive due process and the right to privacy, but understood these rights *positively* or in the group way I’ve proposed, rather than as mere permissions as the *Lochner* court does, the debate over substantive due process could be resolved. Furthermore, the right to privacy arguments in the line of cases following *Casey* could be linked to the Equal Protection argument advanced in *Lawrence v. Texas* (2003), to provide not only support for gay marriage and federal funding of abortion, but of constitutional support for social policy attempting to support workers.

For New Deal liberals, who support precedents that allowed regulation of the economy, and the protection of worker’s rights, but also support more expansive Warren

Court uses of substantive due process, the case is a problem. However, it is also a problem for opponents of these legal trends, or opponents of Unions, because the substantive due process rights extended in *Lochner* can and have been extended to surprising places, such as contraceptive use and interracial marriage; it is a leading contender for justification for same-sex marriage. However, there does not necessarily have to be an impasse between supporting substantive due process in terms of civil rights and the economic liberty found in the original case, which is now only protected on a rational-review basis, in light of a much expanded commerce clause power.

Lochner may not have been as far off base, or as incompatible with later uses of substantive due process as is commonly thought. If the above impediments to the freedom of contract were removed, particularly with the substitution of robust alternatives for moving towards one's life goals and sustaining one's physical needs, than the right to contact might have more of a place next to rights of association and travel, which Judith Shklar perceptively links to the right to work.³²⁰ What the right to good work entails should not be the right to commodity one's labor, but rather the right to participate in collective constitutive projects that have meaning, and to have the freedom to do so without regard to one's waged labor. This would require wide-scale reform, perhaps even larger structural shifts, and would challenge how both markets and politics works in the United States, but could start from the development of positive economic rights through both the

320. Shklar, *American Liberalism*, 123

democratic branches and the Judiciary. In this light, *Lochner* might not be such bad law after all.

This reading helps us avoid *Lochner* style citizenship as it was understood at the time, think with assumptions about the interrelation of paid work, dignity and citizenship that automatically exclude the large portions of the population who gain their sustenance not through the labor market, but through the mediation of the family. Women and children both, while increasingly working in the formal labor market, perform labor in the household that indirectly receives remuneration through the family earnings of a husband or father. At the time of *Lochner*, this issue of women's work and its remuneration, both in terms of cash and political voice and access, came to the fore in *Muller v. Oregon*, and also through women's activism via the temperance movement and prohibition. To understand this tension, a useful case study is the way that women, whose work was not seen as providing the skills needed for citizenship, contested the concept of the good citizen as linked to the good worker.

CHAPTER FIVE: READING TEMPERANCE, PROHIBITION AND REPEAL AS DEMANDS BY WOMEN FOR RENUMERATED HOUSEHOLD LABOR AND A PUBLIC SPHERE OF THEIR OWN

5.1 What we learn from Temperance and Anti-Temperance Women

The experiences of women involved in the American Temperance movement provide an interesting case study that shows the tensions in a concept of citizenship stretched to include the common person through the rhetoric of the social body, while holding on to the model of a fully independent masculine citizen worker. Even as the claims of Shays and waged labor were integrated into the social space, other divisions were deepened. Still, women from a variety of class positions once again asserted themselves politically on account of their reproductive labor, asking not for direct wages but for shifts in laws that would reward women in the home, even if most paid employment was closed to them. They also contested the private nature of masculinized public spheres for workers and upper class professionals, creating their own alternatives and using the power of the state to destroy them. These actions also provide a model for co-constitutive citizenship for our own time.

Temperance and Prohibition are central events in the gendered history of the United States that are only recently receiving the attention they deserve. In American Political Development literature, prohibition and the 18th amendment that limited the sale and manufacture of alcohol on a national level tend to be portrayed as an experiment that failed. Popular sources similarly see Prohibition as a strange aberration in the history of American thought and politics, rather than the product of profound tensions

built around difference, particularly race, class and gender difference, and ignited by attempts to form workers, citizens and families in response to industrialization.³²¹ Similarly, the role of women in temperance and Prohibition, while often featured, is described through the narrative of the development of interest group politics, although this model only fits a certain subset of women. Indeed, women stood and agitated on all sides of this issue, and their approach to politics was rooted not only in assumptions about women's moral superiority, but also in their work inside and outside of the home.

Early social movements prompted and then were aided by the enlargement of the franchise, although their importance is often overshadowed by these broad and formal changes in political structure. In particular, the role of those who are not full participants in formal politics is key, whether the exclusion at issue is *de jure* or *de facto* (the former applying to women, and some immigrants, the latter to these as well as many African Americans). While the canonical story of the social movements after the Civil War and before the New Deal is one of abeyance and aberration, with slow and begrudging attempts to push state and federal government to exercise broader powers to support political minorities, the political story is one of heady expansion of these powers, particularly in service of previously disempowered groups. Furthermore, the

321. Recent popular attention to the experience of prohibitions such as Ken Burns and Lynn Novick, *Ken Burns: Prohibition [Blu-ray]* (PBS (DIRECT), 2011)., Daniel Okrent, *Last Call: The Rise and Fall of Prohibition* (Scribner, 2011). and *Boardwalk Empire*, the HBO series that follows the development of organized crime and political graft all reflect this understanding, exploring the great failure of Prohibition.

claims these citizens made to political space are not made (purely) on the grounds of abstract humanity or even the rights of American citizens, but rather are rooted in the everyday work they performed.

5.2 Roots of Temperance as a Social Movement

To the degree that any historical story can be told simply, the story of Prohibition is the one of a critical mass of temperance minded social activists, building on concerns about immigration and industrialization, who extended state laws prohibiting the sale and manufacture of alcoholic beverages to constitutionalize a federal ban on the sale and manufacture of alcohol. As this 18th amendment was eventually repealed, unlike other pieces of the progressive platform, prohibition is incorrectly understood as a failed experiment.³²² It makes more sense to see the period between the Civil War and the Great Depression, which is the high point of temperance activity, as an integral part of feminist history, social movements, and growth of the power of the federal government. The forerunners of federal prohibition were early associations, most notably the Washington Temperance Societies of the 1840's, which included groups for women and the elite sponsored "Committee of Fifty" which convened to study "the liquor problem", and the Anti-Saloon League, founded in 1893. The Women's Christian

322. J. C. Burnham, "New Perspectives on the Prohibition 'Experiment' of the 1920's," *Journal of Social History* 2, no. 1 (October 1, 1968): 51-68.

Temperance Union (WCTU), headed by Frances Willard, was the largest and most prominent of women's groups with a central tenet of temperance, although we will see that their overall platform was much more complex.

In the first wave of temperance advocacy during the 1860's, activists attempted to shift social mores through direct action and moral suasion, particularly by praying at the doors of saloons or seeking entry. The latter strategy tended to drive away business, as the women activists would pray or drink water in the middle of the bar. One of the most famous of these activists was Carrie Nation, one of many "saloon smashers" who took the fight against alcohol quite literally. Depictions of Nation and her hatchet were a mainstay of pro- and anti- temperance rhetoric at this time.³²³ Nation's advocacy was a complex mix of mysticism and motherhood, as she saw her calling as a religious defender of the conjugal family. Specifically, she joined the image of the mother as moral guardian with public aggression and even violence, a mix of adhering to and transgressing gendered expectations.³²⁴ The image of an older woman wielding a grim face and a hatchet was often rendered comically, but her advocacy is an early indication that the

323. Fran Grace, *Carry A. Nation: Retelling the Life* (Indiana University Press, 2001).

324. "Your lips on my own when they printed "Farewell," Had never been soiled by the "Beverage of Hell," But they come to me now with the bacchanal sign, And the lips that touch liquor must never touch mine." Carry Amelia Nation, *The Use and Need of the Life of Carry A. Nation* (F. M. Steves & Sons, 1908); Ch. 28.

relationship between women and politics was changing, as were the tools and spaces seen as appropriate for this action.

5.3 Prohibition matters for the American Political Development

While the early advocacy of these groups centered around moral suasion and pledges to “stay on the wagon,” by the turn of the 20th century reformers had generally committed to using the power of the state to reinforce moral power.³²⁵ These groups, as well as religious organizations led by pastor Billy Sunday, portrayed Prohibition as a cure for the social ills that appeared to threaten American life, such as the dissolution of the family and urban poverty. These concerns were tinged by nativism, racism and gendered anxieties about masculinity as women moved into formerly masculine spaces, all of which were stirred up in the rapidly changing social conditions. The dry activists requested pledges from elected officials, and advocated one issue voting in favor of dry candidates, whatever their party affiliation. This led to a great deal of success at the state level, as dry states, towns and counties foreshadowed federal prohibition.³²⁶

325 Leonard U Blumberg, “The Significance of the Alcohol Prohibitionists for the Washington Temperance Societies; with Special Reference to Paterson and Newark, New Jersey,” *Journal of Studies on Alcohol and Drugs* 41, no. 01 (January 1, 1980): 37.

326. Ernest A. Grant, “The Liquor Traffic Before the Eighteenth Amendment,” *The ANNALS of the American Academy of Political and Social Science* 163, no. 1 (September 1, 1932): 1–9, doi:10.1177/000271623216300102.

Nonetheless, the passage of the 18th amendment, and its eventual repeal, are unique moments in American history. The Anti-Saloon league drafted the actual text of the 18th amendment in one of the first examples of interest group production of legislation, which banned “manufacture, sale, or transportation of intoxicating liquors,” rather than the consumption thereof, and the details were worked out through the Volstead Act of the following year.³²⁷ While most states had similar laws in place, the patchwork of liquor laws, which often differed from municipality to municipality via “local option” laws, was a regulatory mess. Still, consumption of alcoholic beverages fell markedly and 170,000 saloons were soon closed.³²⁸ Furthermore, admissions to hospitals for alcohol related diseases, such as cirrhosis, and alcoholic psychosis decreased. The wealthy or connected could squirrel away alcohol for home use, while the working classes had less access as prices increased due to scarcity, and “intoxicants priced themselves out of the market.”³²⁹ Class partitioned even alcohol availability. Yet, pro-

327. “The ASL defined itself as a strictly non-partisan organization and used, and to some extent developed, modern lobbying and pressure politics tactics.” Harry Gene Levine, “The Alcohol Problem in America: From Temperance to Alcoholism,” *British Journal of Addiction* 79, no. 1 (1984): 109–119, doi:10.1111/j.1360-0443.1984.tb00252.x, 113.

328. P. Aaron and D. Musto, “Temperance and Prohibition in America: A Historical Overview,” *Alcohol and Public Policy: Beyond the Shadow of Prohibition* (1981): 128

329. *Ibid.*, 165.

hibition was far more successful than we give it credit for; America's drinking levels would not return to pre-prohibition levels until the mid 1970s.³³⁰

Prohibition is most famous not for this relatively successful change in the drinking habits of working class urban dwellers, a central goal of progressive citizenship, but rather for providing the opportunity for the expansion of the criminal underworld represented by such figures as Al Capone. Along with alcohol imported from Canada and other countries where its production was legal, smugglers accessed supplies of alcohol used for industrial purposes or prescribed as medicine. This often required complex treatments to remove the methanol with which much industrial alcohol was mixed, further driving up the cost of booze. While prohibition would eventually provide part of the rationale for the creation of a national law enforcement body in the form of the Federal Bureau of Investigation, its initial enforcement was the purview of the treasury unit of the Internal Revenue Service. Rumors of the corruptibility of agents and local government officials were widespread, and supported by low enforcement rates. Of course, given the consumption was not illegal, even "untouchable" agents had difficulty obtaining convictions.³³¹

330. Wayne Hall. "What Are the Policy Lessons of National Alcohol Prohibition in the United States, 1920–1933?," *Addiction* 105, no. 7 (2010): 1164–1173, doi:10.1111/j.1360-0443.2010.02926.x, 1166.

331. Eliot Ness and Oscar Fraley, *The Untouchables: The Real Story* (Pocket Books, 1987).

During prohibition, alcohol was still consumed, particularly in the home and through the growth of “speakeasies,” which were underground bars, often operating out of private houses and basements. Home brewers and winemakers could still make and consume these beverages, although stills were generally classified as productive and subject to destruction. Although alcohol consumption had fallen, the prevalence of smuggling and a general belief that prohibition was unenforceable gained traction in the late 1920s. As we will see, an unlikely coalition (which features women prominently) advocated to end of prohibition.

Nonetheless, the 18th amendment was still popular as late as 1928, as citizens overwhelmingly choose representatives who supported the Volstead Act.³³² However, the backdrop of the growing economic depression gave new urgency to claims that legalizing alcohol would move illegal profits of bootlegging back into the light of day and back into the realm of taxability. The 21st amendment, which overruled the 18th and mandated state control of liquor laws, was passed in 1933. Fascinatingly, despite its unique status as a repeal of another amendment, the constitutional history of the 21st amendment is lacking. This is despite the fact that it remains the only amendment to be ratified through the use of state conventions, rather than via state legislatures like the others, and despite its subsequent clashes with the dormant commerce clause due to its

332. Steve Olson and Dean R. Gerstein, *Alcohol in America: Taking Action to Prevent Abuse* (National Academies Press, 1985), 8.

second section's granting of alcohol control powers to the states. If it is possible that prohibition was not as much of a failure as generally understood, and if it has deep symbolic and material importance for the citizenship of women, particularly citizenship in relation to class as well as gender, then this omission should be rectified.

Prohibition is also often left out of the standard narrative of the growth of federal centralization, which is instead centered (particularly in the history of Constitutional Law) on development during the New Deal. Along with moral restrictions on consumption, or rather to enforce them, Prohibition became also a centralizing and federalizing project, one that may have been just as important as the New Deal for the solidification of federal power.³³³ Whether Prohibition is seen as part of a pre WW1 growth of the federal government depends on how government size is understood; in terms of GDP, it was still quite small, but in terms of regulation, large.³³⁴ We could trace the growth of the federal prison system in relation to prohibition, as crimes associated with black market alcohol sales rose rather than fell.³³⁵ The increased regulation and crime

333. "...in the fifteen years before the Franklin Roosevelt administration, Americans embarked on an extraordinary public project. Government officials tried to stamp out a major industry and an everyday form of leisure." Morone, *Hellfire Nation*, 283.

334. Randall G. Holcombe, "Growth of the Federal Government in the 1920s, The," *Cato Journal* 16 (1997 1996): 175.

335. Charles Hanson Towne, *The Rise and Fall of Prohibition: The Human Side of What the Eighteenth Amendment and the Volstead Act Have Done to the United States* (The Macmillan company, 1923).

prompted the creation of the FBI in 1908.³³⁶ Prohibition at the federal level also occurs amid prominent public fights over income taxes and other national projects, as the ramifications of the Civil War for federalism emerge. It was only in 1895 that the Supreme Court rejected the federal tax as unconstitutional, and the 16th amendment was not ratified until 1913³³⁷. Prohibition was part of this trend towards centralization, not an aberration.

As a matter of constitutional history, the rise and fall of the 18th amendment is unique. The enormity of a social movement first passing and then another highly related social movement repealing an amendment to the constitution, despite famously difficult ratification processes, is easily lost on contemporary observers. At the time of its proposal, the 18th amendment was part of a shift that began decisively in the Reconstruction practices of the Civil War, wherein the sovereign States of America were replaced by the sovereign People.³³⁸ We might understand this shift as a fundamental

336. H. A Overstreet and Bonaro W Overstreet, *The FBI in Our Open Society* (New York: Norton, 1969).

337. The 17th amendment, which was ratified in 1913 as well, provided for the direct election of senators. This, just as the 16th had and 18th would, shifted power from local and state centers towards the federal government. Even though senators would be elected at the state level, they would no longer be hand chosen by the state legislators, effectively ended any direct control of state government on national representation.

338 In *Hawke v. Smith* (1920), this shift was reinforced by a Supreme Court decision favoring Federal understandings of ratification processes over State law and custom. This case concerned an Ohio provision that allowed for a referendum within 90 days of state legislative ratification of Constitutional Amendments, and the 18th amendment was rejected by referendum. The question before the court was whether the 18th amendment was valid, given that the constitution specifies “state legislature” but does not clarify how this body be defined. Opponents of the amendment argued that Ohio’s referendum process was essentially the

change in the understanding of sovereignty in the United States, transferring to “amending agents” and the federal government the reserved sovereignty of the people; his view is that the lack of conventions and rejection of referendums indicates the undemocratic nature of these amendments, as well as the destruction of the limited government expressed by written constitutional limits.³³⁹

The Repeal of the 18th amendment and Volstead Act in the form of the 21st amendment is no less striking. Proponents of Prohibition, in this case the Anti-Saloon league, confidently laid out the political math required for repeal and declared it without “the slightest hope.”³⁴⁰ Convincing 2/3rd of Congress and 3/4s of the state legislatures or assemblies was and is a difficult task. Yet there were successful, in no small part because prohibition had not succeeded in solving the problems of family life, poverty and unpaid labor in the home that motivated its adoption. A continued interest in these goals prompted repeal just as it had prohibition. The political elites who advocat-

democratic extension of the legislature to include the people via direct referendum. The Supreme Court disagreed, validating the 18th amendment and staving off other state’s plans to hold referendums on National Prohibition.

339 Walter H. Buck, “New Bill of Rights Amendment,” *Virginia Law Review* 9 (1923 1922): 14. Alternately, Dry legal culture during the struggle for national prohibition might reflect tensions over federalism and the existing regulatory structure shifting reformers, and ultimately Progressivism as a whole, in a shift towards a culture of legal change that broke from its roots to reject federalism. Richard F. Hamm, *Shaping the Eighteenth Amendment: Temperance Reform, Legal Culture, and the Polity, 1880-1920* (Univ of North Carolina Press, 1995).

340. Quoted in David E. Kyvig and Honorée Fanonne Jeffers, *Repealing National Prohibition* (Kent State University Press, 2000), 2.

ed for its demise had as their goal not only the potential liquor taxes associated with the industry, but were explicitly concerned about the growth of federal government encroachment into the behavior of individuals.³⁴¹ Repeal meant a rejection not only of the moralizing limit of personal consumption, but an attempt to resist the centralizing state.

Prohibition shows, in fact, how powerful the linking of morality and fear can be to changing government forms. James Morone analyzes it in terms of yet another “moral panic” prompted by immigration and otherness, showing how prohibition was not an accident, but an outgrowth of the utopian thinking that characterizes American religious history and, furthermore, points to the attempt to avoid solving the hard problems, such as lynching in the south, with a simple legal moral rule.³⁴² There are clear analogies in our current wars on drugs and obesity, which may attempt to solve problems of poverty and inequality obliquely. Samuel Gompers (and Frances Willard, actually), as well as Eugene Debs and Jane Addams, argued for the primacy of poverty and estrangement as social problems rather than “demon rum,” but the public accepted the war on alcohol and the demonized the individual alcohol drinker rather than a war on poverty that identified harsh working conditions and massive inequality as problems.

Prohibition was not only a moralistic and individualistic drive to punish and constrain the desires of fellow citizens, particularly those who were poorer or from fur-

³⁴¹ Ibid.,1

³⁴² Morone, *Hellfire Nation*, 281-317

ther away, but also a response to and challenge of the emergent commodity and labor market economy. As with many rapidly industrializing industries, alcohol producers turned to mass production of alcoholic beverages in the late 19th and early 20th century.³⁴³ This did not mean that Americans did not drink in the years leading up to prohibition, but rather that home production of both distilled and brewed alcoholic products was standard. The industrialization of beer production and commodification of beer consumption went hand in hand with the broader move towards industrialization and urbanization, especially as immigration from beer drinking nations, such as Germany and Ireland, swelled to meet labor market demands. Prohibition cannot be disconnected from immigration, or from industrialization, and the temperance movement should be interpreted in relation to these broader changes in American economic and social life.

Similarly, the social movements literature tends to overlook the importance of the political activity that occurs before 1913. This may reflect the view that “[n]ew Social movements are a product of the shift to a postindustrial economy...unique and, as such, different from the social movements of the industrial age.”³⁴⁴ It may be a mistake

343. There were only 140 commercial breweries producing about 180,000 barrels of beer in 1810, while this number jumped to 66 million barrels by 1910. *One Hundred Years of Brewing: A Complete History of the Progress Made in the Art, Science and Industry of Brewing in the World, Particular During the Nineteenth Century* (Arno Press, 1974), 78.

344. N.A. Pichardo, “New Social Movements: A Critical Review,” *Annual Review of Sociology* (1997): 411–430., 412 This quote is part of a critique of the inability of the NSM paradigm to understand activity not originating from the formal political sphere. See also S.M. Buechler, “New Social Movement Theories,” *The Sociological Quarterly* 36, no. 3 (1995): 441–464. for an overview of approaches to study-

to see the time in between major landmarks (such as the first and second waves) as dead periods, but these are instead times of “abeyance” that may be integral for the growth and health of social movements.³⁴⁵ The progressive social movement, which comes into its full powers while prohibition is in effect and on which the New Deal reforms of the Roosevelt administration are based, is built on the networks and experience of temperance activists, and even those who advocate for repeal.

5.4 Contextualizing Prohibition in the Changing Family

Prohibition and temperance also occur in a time when men and women, sometimes with the aid of law, substantially renegotiate the terms of marriage and family life. Sometimes this renegotiation is portrayed as the coercive effect of industrialization on gender relationships, but this approach misses the degree to which men and women were also agents in these shifts. While they are often portrayed as adversaries in both popular entertainment and political propaganda (especially temperance propaganda), men and women from a variety of class, gender and racial positions seek to renegotiate

ing NSM, Alberto Melucci, “The New Social Movements: A Theoretical Approach,” *Social Science Information* 19, no. 2 (May 1, 1980): 199–226, doi:10.1177/053901848001900201. for a consideration of the relationship of NSM theory to Marxist and structuralism in sociology.

345. Verta Taylor, “Social Movement Continuity: The Women’s Movement in Abeyance,” *American Sociological Review* 54, no. 5 (October 1, 1989): 761–775, doi:10.2307/2117752.

institutions like marriage and courtship, in part through resistance to its commodification.³⁴⁶ Certainly, the power of industry, including those industries tied to alcohol is important, but does not negate the ability of individuals to counter or modify those interests.

The specter of divorce and family disintegration is in fact central to progressive ideology and activism.³⁴⁷ The time period in question forms the context for a transition “from institution to companionship” for marriage, although we might wonder whether companionate marriage is also an institution.³⁴⁸ A companionate marriage was to be the central experience in the lives of individuals, and its maintenance and concern rank above those of society or other associations.³⁴⁹ Despite some variance between states, the prevalence of “fault” divorces (i.e. when one party had to prove infidelity, dissipation, madness or the like) prior to the late 19th century was likely the main cause for

346. For a small, but interesting example, there was an attempt by the jewelry industry to introduce “male engagement rings” in the 1920’s with reference to tradition; the failure (and contrasting success of male wedding bands in the 1950’s) testifies to the continued ability of men and women to negotiate even prominent images of gender norms, given that the rings were promoted as for a “he-man.” Vicki Howard, “A ‘REAL MAN’S RING’: GENDER AND THE INVENTION OF A TRADITION,” *Journal of Social History* 36, no. 4 (Summer 2003): 837. And Vicki Howard, *Brides, Inc: American Weddings and the Business of Tradition* (University of Pennsylvania Press, 2006).

347. William L. O’Neill, “Divorce in the Progressive Era,” *American Quarterly* 17, no. 2 (1965): 203–217.

348. Ernest Watson Burgess, Harvey James Locke, and Mary Margaret Thomes, *The Family: From Traditional to Companionship* (Van Nostrand Reinhold Co., 1971).

349. Kristin Celello, *Making Marriage Work: a History of Marriage and Divorce in the Twentieth-century United States* (Univ of North Carolina Press, 2009).

low divorces.³⁵⁰ It was at least interpreted as such by the Department of Labor who commissioned a study in 1880 to try and understand American divorce rates, which were indeed the highest in the world.³⁵¹ These laws changed as marriage changed; it became an individual choice, centered ideally on affection or love, and divorce laws followed suit.

The context for temperance and prohibition was changing society where work, family and how government related to citizens were renegotiated, and the way activists acted reflects this complexity and the importance of temperance and prohibition in the attaching citizenship to work. Attempts to modify classical citizenship to fit the social scape of the late 19th century were running up against the fact that a great deal of presumptive citizens were, along with their other unattractive qualities, drinkers. Temperance and prohibition were not a failed experiment or an historical aberration, but rather a core experience in the construction of gendered citizenship tied to the public sphere of waged labor, but also providing an alternative history of claiming wages for reproductive labor.

350. Nancy F. Cott, *Public Vows: a History of Marriage and the Nation* (Harvard University Press, 2002), 205-207, 212, 224.

351. Celello, *Making Marriage Work*, 19

5.5 Feminist Readings of Prohibition as Maternalist

The story of suffrage and women's social movements usually includes, but rarely foregrounds, prohibition and temperance. Part of this may be due to a tendency in feminist thought to structure history around a "waves" concept, wherein neither prohibition nor the continued efforts of activists during the 1940's and 1950's fit neatly into the dominant narrative, wherein liberal first-wave feminists gain the vote, and then fade into the background until the second-wave emerges in the 1960's.³⁵² The period before 1903, when the suffragist movement established itself institutionally through the National Woman's Party but after the 1848 Seneca Falls convention, and related activity by Susan B. Anthony and Lucy Stone, is relatively blank.³⁵³ Or, if not blank, it is filled with intimations that the activity of women between Seneca Falls and the gaining of the (national) vote in the United States in 1913 were not political but rather "maternalist"

352. For a critique of the "waves" narrative as tending to negate the accomplishments of earlier generations, as well as ignore the complexity of feminism, and create a poisonous "mother/daughter" relationship, see C. R. Showden, "What's Political About the New Feminisms?," *Frontiers: A Journal of Women Studies* 30, no. 2 (2009): 166–198. For an argument as to how third-wave feminism can overcome these tensions through a critical historiography, Leslie Heywood and Jennifer Drake, *Third Wave Agenda: Being Feminist, Doing Feminism* (University of Minnesota Press, 1997). An alternative "no wave" approach to feminist history can be found in Prof. Nancy Hewitt, ed., *No Permanent Waves: Recasting Histories of U.S. Feminism* (Rutgers University Press, 2010).

353. See, for example, this otherwise compelling resource mobilization approach to the history of the women's movement. Barbara Ryan, *Feminism and the Women's Movement: Dynamics of Change in Social Movement Ideology, and Activism* (Psychology Press, 1992).

acts seeking “social purity”³⁵⁴ or mere temporary transfers of home life into the city square³⁵⁵ and in general as a turn to the social and private, away from the political.

This sort of view only counts as political (and, by implication, emancipatory), activities that are now considered clearly part of politics, such as interest group formation and voting. In the early 20th century, these activities are clearly public and clearly political. Yet the temperance movement does not occur against a backdrop where interest group mobilization or mass electoral politics were established, but rather in a space with a much smaller national government and more locally aligned political practices. To contemporary eyes, women picketing inside or outside of a saloon look like a pack of busybodies asserting themselves in the business of others.³⁵⁶ In contrast, the women marking for voting rights are coded as political figures, even as their demands for voting rights are centered in the same maternalist “home protection” ideology. The temperance legacy has also been sullied by the eventual descent of the WCTU into racism, Social Darwinism and Eugenics. Within the history of the women’s movement, and feminist theory, prohibition is seen as important but highly constrained by dominant ideology that linked women to the private domestic sphere of the home. It is seen as “another way that women fused domesticity and politics,” especially given

354. Estelle B. Freedman, *No Turning Back: The History of Feminism and the Future of Women* (Random House Digital, Inc., 2003), 65.

355. Marian Sawer, *Women’s Movements: Flourishing Or in Abeyance?* (Psychology Press, 2008).

the prominence of the WCTU and its “home protection rhetoric” which housed its advocacy in the duty of women to care for the home and family.³⁵⁷ Certainly, there were tradeoffs contained in the home protection route, but they were not made unknowingly and not the only types of advocacy.

Despite the close relationship that prohibition and temperance have with a growth in their political power, women’s rights advocates seem somewhat embarrassed by the episode. The mainstream feminist tradition in America strongly identifies with liberal rights-based approaches to equality, and as such is typically skeptical of legal restrictions on what are seen to be moral (or even public health) issues, seeing them as barely veiled attacks on the choice and privacy of individuals, especially women. Given the core place that reproductive rights, including abortion, have held in the political action of women’s movements for the past 50 years, it is difficult for feminists to applaud a movement that demonized seemingly private choices about the body. Furthermore, the premise of Mothers against Drunk Driving (M.A.A.D) in the 1980s and beyond was often associated with conservative feminism, sometimes left out of the story of the development of the women’s movement.³⁵⁸ While the temperance movement, and its leaders, are often acknowledged as part of the early movement of women into public

357. Paula Baker, “The Domestication of Politics: Women and American Political Society, 1780-1920,” *American Historical Review* 89, no. 3 (June 1984): 620.

358. Kim E. Nielsen, *Un-American Womanhood: Antiradicalism, Antifeminism, and the First Red Scare* (Ohio State University Press, 2001).

and political life, it is not as celebrated as the abolitionist movement, which fits in better with the emancipatory narrative of suffrage.

Histories of women's movements in the United States do not utterly leave out temperance, but the complex actions and positions of different groups of women is often covered over, perhaps in part because the connection between temperance and progress for women, or what we might call women's rights, is not well understood. Furthermore, the WCTU tends to become the focus of feminist studies of the period, prompting ongoing debates about its feminist content (or lack thereof).³⁵⁹ They ask whether temperance was good for women, or for feminism, rather than asking what sort of gendered relationships of citizenship and belonging were highlighted, developed and altered through the temperance movement. However, there are a few historians who have worked on the temperance movement, taking gender and power as part of shifting and constructed patterns, rather than static.³⁶⁰

359. For explorations of the feminist and political content of the WCTU, see, Barbara Leslie Epstein, *The Politics of Domesticity: Women, Evangelism, and Temperance in Nineteenth-Century America* (Wesleyan University Press, 1986). For the changing rhetoric and ultimate conservatism of the WCTU, see Janet Zollinger Giele, *Two Paths to Women's Equality: Temperance, Suffrage, and the Origins of Modern Feminism* (Twayne Publishers, 1995) and Suzanne M. Marilley, *Woman Suffrage and the Origins of Liberal Feminism in the United States, 1820-1920* (Harvard University Press, 1996), which discusses the WCTU as promoting a "feminism of fear," opposed to the concern that the WCTU was too easily overcome by conservatism to be truly emancipatory, as in Lori D. Ginzberg, *Women and the Work of Benevolence: Morality, Politics, and Class in the Nineteenth-Century United States* (Yale University Press, 1992). Finally, for an argument that this conservatism was based in racial opposition see Louise Michele Newman, *White Women's Rights: The Racial Origins of Feminism in the United States* (Oxford University Press, 1999).

360. For example, Bruce Dorsey, *Reforming Men And Women: Gender in the Antebellum City* (Cornell University Press, 2006) explores the relationship between masculinity and temperance in the antebellum period, noting especially the struggle to define gender roles that occurred within the temperance movement.

While it is surely true that there are significant drawbacks to the approach and ideology of temperance activists and their opponents, they were not a monolithic group, and their concerns were part of the broader tensions around citizenship raised by industrialization and immigration, as well as the generally pre-industrial models of citizenship available to progressive era thinkers.

5.6 Temperance was part of larger strategy of Stanton and Willard

Indeed, most temperance advocates were not as single-issue minded as might be assumed, and their focus on temperance reflected, rather than detracted from, their commitment to social justice. For example, Elizabeth Cady Stanton and Frances Willard were both deeply personally committed to temperance, but within the broader context of their political theory, temperance was about more than moral prohibition. Each of these women did, perhaps sometimes unthinkingly, reflect the gendered division of labor and assumptions about the proper separation of the sexes, including the

In contrast, Elaine Parsons explores the way that the figure of the male drunkard stood in relation to the state, and understandings of social responsibility in *Manhood Lost: Fallen Drunkards and Redeeming Women in the Nineteenth-Century United States* (JHU Press, 2003). Holly Berkley Fletcher steps back and looks at these same gendered histories and develops an argument about the broader types of social changes that are part of, and result from, temperance. She sees the icons of the “self-made man” and “crusading woman” as part of a political culture and language that helps us understand broader currents in early American society. Holly Berkley Fletcher, *Gender and the American Temperance Movement of the Nineteenth Century* (Psychology Press, 2008), 25. For each of these theorists, temperance was a complex phenomenon that could not be reduced to either a simple boon or bane for feminism, women or society.

prominence this gave women in matters of morality and family. However, they also questioned these divisions, and their questioning often centered on the status or place of women as workers.

The strategic use of temperance, and the cultural norm of the moral superiority of women, was a central tactic for Stanton, although she argued that “women’s economic dependence on men, which was reinforced by their lack of legal or political rights” was a bigger problem than alcohol.³⁶¹ Stanton connected the alcoholism of men and the related abuses to the general economic plight of women. The issue of temperance was more acceptable than that of suffrage, and meeting space or other resources could be more easily obtained by groups of women promoting temperance than those seeking the vote.³⁶² In particular, Stanton and her allies used religious networks and allies to promote temperance, ultimately asking that pastors speak from the pulpit on suffrage as they had against alcohol, the “white slave trade” and other prominent social issues. Through concerns about economic dependency, she drew attention to the problematic division of labor in the household, which she saw as exposed publicly by the rise of alcoholism and what seemed to be incumbent poverty. Like many thinkers of her time, she both questioned and relied on the “cult of domesticity” and separate

361. Sue Davis, *The Political Thought of Elizabeth Cady Stanton: Women’s Rights and the American-Political Traditions* (NYU Press, 2008), 90.

362. Elizabeth Cady Stanton et al., *History of Woman Suffrage ...: And V. 6. 1900-1920* (Fowler & Wells, 1922), 162.

spheres ideology, and her liberal feminism was shot through with more radical alliances with free love, labor and reproductive rights movements.³⁶³ While she focused her energies on gaining access to formal rights, most particularly the vote, property, and access to employment, she also spoke frequently about the problematic relationship of work within the family to work within the formal labor sphere, given the necessary dependence those who did the former had on those who did the later.

The WCTU, and its most recognizable leader, Frances Willard, drew close connections between gender and temperance. It was, however, not her only focus, and her advocacy for education, birth control, community health centers, public kindergarten, sex education and similar ideas are easily overlooked. Willard popularized the theory of “home protection” in her speeches and writings, and this argument formed a basis for calls for women’s suffrage, and indeed is echoed in variants of care feminism. The idea that women had a special duty and ability to protect the home, and to do so would require them occasionally to leave it, is a much more radical notion than might be appreciated from this remove. As Willard explains it, the root of home protection is in the instinct of “self-preservation,” which she closely aligns with “mother love,” but also with the non-essentialized role of the wife as a particular position in the family.³⁶⁴ She

363. Davis, *Political Thought of Elizabeth Cady Stanton*, 165-167

364. Frances Elizabeth Willard, *Woman and Temperance: Or, The Work and Workers of the Woman’s Christian Temperance Union* (Park Publishing Co., 1888), 483.

strategically uses the role of women as defenders of the home space, a position fully aligned with the “Angel in the Home” ideology common in the upper classes.

Willard’s own work at times guilty of this same hyperfocus. Written to explain the tactics and platform of the WCTU, her text *Women and Temperance* is an odd mix of portraits of individual temperance activists and a presentation of central accomplishments of the WCTU, organized under such headings as “WCTU in the House, Society and Government”. Throughout the text, the trope of “pictures of women at work” is deployed to describe not only political and social work aimed at temperance or the other goals of the organization, but also housework, educative work, volunteering and, occasionally, wage earning in labor market. Work, along with the ethical position affording to women, carried great weight in Willard’s arguments for the centrality of temperance for supporting the lives of women and children. After the consistent display of women’s work as part of an appeal, Willard describes set of tactics for instituting the social change sought; some, like proselytizing among the Germans, prisoners and those in the slums substantiate the claim that the WCTU and similar organizations functioned through a racist and classist logic.³⁶⁵ Others are calls for the use of federal, state and local powers to prohibit the use of alcohol, or the formation of temperance clubs to provide alternative amusements for men and women.³⁶⁶ In between, Willard advocates

365. Ibid., 650.

366. Ibid., 654.

the development of independence for young women through the development of skills such as gardening, customer service and accounting.³⁶⁷ Willard's "Home Protection" theme makes use of but also subverts the separate sphere ideology common at the time.³⁶⁸ The problems of women's work and the solution of temperance- as well as social transformation-were linked in Willard's imagination.

5.7 Labor in Temperance Texts

There are also rich resources for understanding the relationship of temperance, work and gender in primacy documents from temperance societies themselves, such as published collections of useful materials for would-be temperance activists.³⁶⁹ The lengthy book is a mix of prose, poetry and illustration, and includes an example of most of the common deployments of masculinity, femininity and their relationship to work

367. Ibid., 656.

368. The leap from the assertion of women's special nature, and special position as dependent in the home to the call for suffrage is shown in her 1879 speech to the Illinois senate, which was considering a bill that would have granted limited suffrage to women on the topic of liquor. Willard asserts the fundamentally non-political and non-partisan nature of her campaign, and yet in the same breath demands the vote. This may, of course, be merely political posturing, given the Willard knows full well that the vote is political and partisan, and that its gain will change the relationship of women to politics. However, she nonetheless asserts the rather contradictory claim to this public space by evoking the private work of mothers and wives, destabilizing the lines between public and private. . Frances Elizabeth Willard, "Address Before the Illinois Senate" (Speech, Springfield, Ill., April 10, 1879).

369. L. (Lizzie) Penney, *The National Temperance Orator...: By Miss L. Penney.*, 1881, <http://name.umdl.umich.edu/aev6738.0001.001>.

and family. First, there is the ever-present specter of the absent or abusive father, whose drinking harms “little ones like me,” in the form of the innocent child that is retained from Victorian imagery.³⁷⁰ There is also the deployment of alcohol as enemy to the rising association of masculinity with self-mastery and individualism; drinking turns men into “victims” who are “enslaved”³⁷¹ by “sorcery”³⁷² of “basilisk spells.”³⁷³ In particular, drinking men are described as lazy and unwilling to work: “mopes and encumbrances to society.”³⁷⁴ This is odd given that the temperance movement, while spearheaded by upper-class whites, was aimed squarely at the working classes, particularly immigrants and blacks, who were much more likely to trade their labor for wages. Indeed, a counter-argument of the time, which even Frances Willard expressed sympathy for, blamed urban working conditions for the rise of alcoholism.

This contradiction seems to resolve in a dual strategy; that of moral suasion housed in a model of masculinity for the upper classes and legal enforcement of this masculine ideal for everyone else. Thus Horace Mann’s contribution contrast a competent, handsome and upright man with a craven, deformed drunkard, while a poem suggests, in a sentence alarmingly close to the opening sequence of a 2000s sitcom: “the

370. *Ibid.*, 29.

371. *Ibid.*, 196.

372. *Ibid.*, 74.

373. *Ibid.*, 75.

374. *Ibid.*, 192.

world wants men, men, manly men.”³⁷⁵ Masculinity, particularly working class masculinity, was a central obsession of the temperance activists.³⁷⁶ However, the connection between masculinity and temperance is clearly a contested one at the level of popular culture, rather than as a media disseminated image, with both sides attempting to connect manliness to either consumption or forbearance. Thus the early forerunner of the “self made man” teetered between drinking and not drinking, depending on who deployed the image.³⁷⁷ The temperance fight was over whether Horatio Alger would end up with a glass in his hand or not.

Women were not immune from images of social control. The female drunkard is not absent from this text, represented especially as a wayward, working class mother

375. Ibid., 171-172.

376. Interestingly enough, the husband who abandoned or did not support his wife was frequently categorized with and even corporally punished alongside sexual “deviants” such as cross-dressers, pimps or porn-peddlers, part of a broader trend towards pathologizing those who seek to escape the coalescing nuclear family. Angus McLaren, *The Trials of Masculinity: Policing Sexual Boundaries, 1870-1930* (University Of Chicago Press, 1999). This reflected also in popular literature such as the work of Arthur Miller and Tennessee Williams, which occasionally may provide glimpses of a counter-narrative that is more sexually and gender flexible. David Savran, *Communists, Cowboys, and Queers: The Politics of Masculinity in the Work of Arthur Miller and Tennessee Williams*, 1st ed. (Univ Of Minnesota Press, 1992). Tom Pendergast, *Creating the Modern Man: American Magazines and Consumer Culture 1900-1950* (University of Missouri Press, 2000), uses pop culture in the form of men’s magazines to warn against assuming an overly simplistic narrative of a restrictive model of masculinity applied from above and desired by corporate culture.

377. See Irvin G. Wyllie, *The Self-made Man in America: The Myth of Rags to Riches* (Rutgers University Press, 1954), as well as John G. Cawelti, *Apostles of the Self-Made Man* (University of Chicago Press, 1965).

who, “drunk in the street,” shames her waiting family.³⁷⁸ In “Little Bessie,” a mother is talked into temperance by an interlocutor who draws on the mother’s protective duties to her children, suggesting that alcohol is just as dangerous as a weapon in the home.³⁷⁹ Not only are anxieties about who is raising children and how they are raised prevalent, but also so is absolute maternal responsibility for the welfare of children, a trait that is often naturalized but was less prevalent in societies with higher mortality rates in childhood. Indeed, we might see the tendency in early 20th century psychology to center adult disorders in failures in mothering as an outgrowth of this development.³⁸⁰ Temperance ideology draws on this trend.

Ideological images of women also abound in this volume, supporting to a great extent the influential “cult of true womanhood” thesis of, wherein women aspire to “piety, purity, submission and domesticity.”³⁸¹ In particular the text calls for the women “of polite society,” a thinly veiled class signal, to use moral suasion and their role as educator of the young (and holding a monopoly of the legitimate supply of sexual rela-

378. Penney, *The National Temperance Orator*, 194. Indeed “The Drunken Mother” is a particularly depressing poem where the titular character dies horribly in front of her weeping children. 89.

379. *Ibid.*, 277

380. See, for example, a rash of theories connecting mother love with homosexuality, many emerging from the theories of Sigmund Freud, who famously linked repression of mother love, or failure to bond with the same-sex parent, with homosexuality. The worst part of Betty Friedan, *The Feminine Mystique* (Norton, 2001), is the misuse of Freud to condemn stay at home mothers for the “murky fog” of their children’s homosexuality, which results from their neurotic parasitic attachment. *Ibid.*, 147.

381. Barbara Welter, “The Cult of True Womanhood: 1820-1860,” *American Quarterly* 18, no. 2 (July 1, 1966): 151–174, doi:10.2307/2711179.

tions) to promote temperance.³⁸² This task is explicitly constructed as “women’s work,” just as the broader temperance effort is constantly referenced as labor, effort, making or just work. Alongside the oft-noted martial and religious symbolic language, metaphors related to work, or images of communal projects such as pyramids and towers are prevalent.

5.8 Labor and Temperance in Popular Culture

The drive for prohibition (and part of the drive against it) was on the part of women intimately connected to demands for social respect and economic compensation for their labor. This request is rarely made explicit, but is clear in both the campaigns themselves and the close connection of work and alcohol in popular culture. Many vaudeville plays dramatized the connection between alcohol, reproductive labor (particularly the work of raising children) and gender relations, usually setting the drama within a marriage. A typical play begins with a conflict over household labor; in this case, a fight about why the wife, Emily, has not prepared dinner for her husband, Harry, who leaves to give her time to make him dinner.³⁸³ Then a comedic adventure with baking occurs, wherein it becomes clear that Emily is an inexperienced cook, until Har-

382. Penney, *The National Temperance Orator*, 167.

383. John H. Washburne, “A Happy Home : a Comedy Sketch in One Scene,” 1913, Rare Book and Special Collections Division, Library of Congress.

ry returns “with a beautiful jag.”³⁸⁴ They fight, and while the initial conflict is over the cooking, the argument immediately shifts to money, and a debate over whose property the house and its contents properly are. In the play, a *mother in law ex machina* solves the fight over shared possessions, but the tension over the connection between property, work and marriage is evident, and common in theater of the time.

In other play, an angry wife links her labor and her citizenship directly, commenting “You want us [women] to pay taxes, mend socks, mind babies, cook wash and iron and still we must keep our mouths shut.”³⁸⁵ This play, “Don’t Wake the Baby,” has fun with the fact that both milk and alcohol comes in bottles; he is left in charge of the baby while the wife attends a political meeting, during which he places the baby’s diaper on his little head and spikes the bottle of milk with whiskey. The subtext is that men are not fit for reproductive labor, and that when women attempt to upset the gendered division of labor by entering the public space; men bring disorder and drunkenness into the private sphere. Yet, the claims of the wife that connect her tax paying to her mending and both of these to the requirements of a public voice go unanswered, leaving the ultimate narrative of the play coinciding nicely with the manufacture of the lazy, incompetent husband as scapegoat. Marriage was about money as much as it was

384. *Ibid.*, 5.

385. Junie McCree and Edward Clark, “Shrode & Chappelle in a Domestic Dialogue Entitled Don’t Wake the Baby,” 1912, Rare Book and Special Collections Division, Library of Congress.

love, and alcohol was an economic issue because of its ability to destroy the ability of its abuser to provide for his family.

The economic underpinnings of marriage are questioned from the point of view of the husband, as in prominent vaudevillian's deeply satirical monologue.³⁸⁶ In this play, the speaker says that women's entry into marriage is akin to becoming a capitalist, investing in the "machine" of a husband, and that this arrangement is unacceptable when women "don't want to do their own housework."³⁸⁷ The changing nature of marriage as an economic bargain is then linked to temperance (and women's political status) through the medium of the free saloon lunch, which is portrayed as necessary given the unwillingness of women to provide food for their men.³⁸⁸ Tension over household labor is not new, nor is the turn to creative solutions, like the free saloon lunch, to circumvent the tensions.

The deep connection between children and property is also a common reference in popular entertainment and the political advocacy of progressive theorists. Many plays show a couple staying together for the sake of a child, who is often symbolically linked to their shared property, as in play where the dueling couple's clothing are pack-

386. Aaron Hoffman, "The Speaker of the House, or, The Views of Senator Boob," 1915, Rare Book and Special Collections Division, Library of Congress.

387. *Ibid.*, 14.

388. *Ibid.*, 18.

ing into suitcases, and then mixed in the middle of the stage with the child on top.³⁸⁹ A trope so common as to become dull in these early vaudevillian plays is a disagreement over who owns the furniture, with the husband claiming that he has purchased it while the wife claims that it is her dowry money that makes up his cash reserves; note that this tension is happening at the same time that an activist push for reform of common property laws is in effect.³⁹⁰ The relationship between women's work, property and marriage was an open topic of comedy and discussion, not a secret to be uncovered.

5.9 Connecting Temperance to the concept of Reproductive Labor

To fill in theoretically how prohibition was about labor, not merely morality, looking at the 1970s exploration of housework by Italian feminists involved in the Marxist Autonomist movement is useful. They protested existing social arrangements because of the hidden and unremunerated nature of work in the home, which for them included sexual as well as manual labor. They claimed that capitalism is built on the assumption of invisible or free labor in the home, which they titled "reproductive labor,"

389. Wiley Hamilton, "Why Smith Stayed Home : a Domestic Comedy Scene," 1900, Rare Book and Special Collections Division, Library of Congress.

390. In "Training a Husband," the pair acts out this trope, and then strikes a bargain where she will agree to quit her athletic club if he gives up drinking- both pastimes that were unacceptable renegotiations of gender roles. murray Ferguson, "Training a Husband," 1900, Rare Book and Special Collections Division, Library of Congress.

developed from on the Marxist idea that market relations provide bare subsistence levels to the worker, while exploiting the excess, unpaid surplus labor. This wage relation is how capital works, as what each individual has to sell is his or her labor itself, which becomes a commodity, a labor commodity, in the free market. Reproductive labor is what creates the labor power in the first place.³⁹¹ Thus, one of the ways that capital grows profits is by the free exploitation of the ideology of the home and women's work that does not need to be directly accounted for on a balance sheet or unemployment figures, particularly as "family-wage" jobs become less common. Struggles over welfare, medical care, housing, and education can all be seen as evidence of this pressure point. Indeed, we can see that women, especially women of color and immigrant women, have long been at the forefront of activism relating to these ideas. The Italian solution was to demand wages for household labor, a move echoed by Selma James in the United States.

However, another way to approach the same problem would be to use legal restrictions on social practices that abuse or undervalue reproductive labor. While the

391. "First it must be nine months in the womb, must be fed, clothed and trained; then when it works its bed must be made, its floors swept, its lunchbox prepared, its sexuality not gratified but quieted, its dinner ready when it gets home, even if that is eight in the morning from the night shift. This is how labor power is produced and reproduced when it is daily consumed in the factory or the office." Non-waged labor produces is the worker (and therefore, ultimately, his or her ability to produce surplus value) Mariarosa Dalla Costa and Selma James, *The Power of Women and the Subversion of the Community* (Falling Wall Press, 1973), 11. They see the home, the community, and the family as the hidden source of the actual value that becomes surplus labor. The laborer is able to sell his or her labor at such a cheap price because he or she does not have to pay for the services listed above

family and patriarchy certainly existed before capitalism, the particular form that the family was taking at the turn of the century was fundamentally capitalist.³⁹² Positing the complete movement of men and women into utterly separate spheres is too simplistic, but shared labor of those in the home together, such as on farms, was replaced by work, often by multiple family members, outside the home. In any case, the reproductive work of childbearing and rearing still fell on the mother, although many wealthy women were able to continue to shift these responsibilities on the lower classes through the hiring of domestic labor, often very cheaply. While women did not yet outright challenge this arrangement, the bargain only worked when the reproductive labor of women was rewarded with a stable household- and this was undermined by the conditions under which more and more urban populations labored. Similarly, more wealthy families were experiencing their own tensions around the relationships between men and women, particularly around the exclusivity of the public space of social interaction. This would also change during prohibition, although not necessarily in the way that Drys had thought.

Instead, Prohibition is a time where women's work changes substantially. While prohibition was nationally instituted in 1920, and lasted until the 21st amendment in

392. "In time, the pre-capitalist household with its unity of production, reproduction and consumption collapsed, leaving a void." Stuart C. Aitken, *The Awkward Spaces of Fathering* (Ashgate Publishing, Ltd., 2012), 48.

1933, a large majority of states and countries went dry in the twenty years before that, with Maine starting the party, or rather ending it, in 1851. This was also a time when women moved markedly into the paid labor force.³⁹³ The literature on women's work in this time generally agrees that, despite the initial view of "two separate spheres," women's work was often intimately integrated into home life, and indeed the choices women made about employment should be understood in the context of their greater households and family units.³⁹⁴ Frequently, women's labor was often hidden (at least from the census), particular if they were self-employed or involved in a male led type of self-employment. Women often frequently kept chickens, grew vegetables, took on boarders, or even ran small restaurants out of their homes. Yet this sort of cottage industry was under pressure from the rising availability of slightly higher paying factory jobs, some of which duplicated services previously offered at home. Of course, participation in the labor market was markedly different for women of color.³⁹⁵ Note that

393. In "1890, less than 3% of married women worked outside the home. By 1900, 25% of all women were participants in the labor force. This percentage gradually rose over the next decade, and by 1910, nearly 7.5 million women worked outside the home. D. M. Domenico and K. H. Jones, "Career Aspirations of Women in the 20th Century" (2007), <http://scholar.lib.vt.edu/ejournals/JCTE/v22n2/domenico.html>

394. Nancy F. Cott, *Public Vows: a History of Marriage and the Nation* (Harvard University Press, 2002).

395. African American women worked at a much higher rate than white women; race was and is the highest correlation to whether someone works outside the home, even above marital status and geographic location. Marlese Durr and Shirley Ann Hill, *Race, Work, And Family in the Lives of African Americans* (Rowman & Littlefield, 2006), 236.

much of this work contradicts the idea that a strict separation of spheres occurred in terms of the workplace and politics- although one exception is in the availability of public amusement and society.

Women at the turn of the century are severed from production, or entering the workforce at lower wages than men, while still responsible for domestic work, and thus at a disadvantage. This combines with rampant problems with domestic violence; abandonment and lack of access to wages men receive. Laws that might come later, like protections against abuse in the home, child support, or more protective divorce laws, were politically impossible. Yet, temperance women took aim at these problems through advancing the goals of temperance, which were understood as advancing women's special moral role as keeper of the home, rather than unsettling gender relations. Yet, this political movement cannot be contained in the ideology of women in the home, as it required that women act publicly and form their own public spheres for political and social advancement. It also made the issue of economic relations between family members a political one; companionate marriage should not be seen as a trade of affection for labor, but rather required that each partner both labor and love, and this bargain could be backed by law.

Read as a demand for wages, respect, and for a public space outside of the home, perhaps even coeducational working and learning environments, prohibition is more complex, and the easy declaration of its failure is a mistake. How we currently understand prohibition tells us much about our relationship not only to gender, conservative social movements and political morality, but also constitutional change. As mentioned above, prohibition is often deployed in arguments about limited government, with proponents of such varied policies as the decriminalization of cannabis and rejection of anti-obesity measures such as required calorie counts or bans on trans-fats using it as a rhetorical flourish. Certainly, proponents of temperance and prohibition advocated the use of government power as well as moral suasion to combat the ills of alcoholism. In particular, through exploring the role of the government in “home protection” a trope that Frances Willard adapted from a speech on tariffs.³⁹⁶ Home protection was a powerful metaphor for proponents of temperance, particularly those in the WCTU, and in particular allowed Willard to link moral issues with demands for suffrage, the latter of which were initially met with suspension even by WCTU members. Home protection was the rhetorical invocation of separate spheres ideology, with the twist that, given the apparent inability of men to exercise political power to protect the home, despite

396. Ruth Birgitta Anderson Bordin, *Woman and Temperance: The Quest for Power and Liberty, 1873-1900* (Temple University Press, 1981), 98.

its role as “haven in a heartless world,”³⁹⁷ it became necessary for women to leave the home in order to protect it. Indeed, it was sometimes suggested that women be given the vote only in relation to moral matters; “it was not enough that women should be home-makers, but they must make the world itself a larger home.”³⁹⁸ The entire world was annexed as a subject of women’s work.

The need to remake the world into a “home” also aligned with developing social gospel movement espoused by theologians like Walter Rauschenbusch; he and related thinkers saw in Christianity a duty to remake the world in the image of the kingdom of heaven, and argued that the second coming of Christ could only occur after the hard work of Christians purified the sinful world.³⁹⁹ Social gospel theology was key to the home protectionist strategy that Willard embraced, because it mirrored the arguments about the moral duty of women to leave the private sphere to protect it, in that it

397. In a defense of what he sees as more traditional marriage arrangements, this phrase symbolizes what has been lost for Christopher Lasch, *Haven in a Heartless World* (W. W. Norton & Company, 1995).

398. Union, Willard, and Association, *Annual Address of Frances E. Willard ... Before the 19th National W.C.T.U. Convention, Denver, Colo., 1892*.

399. Walter Rauschenbusch, *A Theology for the Social Gospel* (The Macmillan company, 1922). For an overview of the social gospel movement, including its connections to progressivism, Ronald Cedric White and Charles Howard Hopkins, *The Social Gospel: Religion and Reform in Changing America* (Temple University Press, 1976). And, for a fascinating discussion of gender and social gospel, where This argument inspired many prohibitionist women and men, and it has argued that Willard herself should be considered as central a thinker in this movement as Rauschenbusch see Wendy J. Deichmann Edwards and Carolyn De Swarte Gifford, eds. *Gender and the Social Gospel* (University of Illinois Press, 2003), 21-34.

demanded that the private duties of religion translate to public deeds and advocacy.⁴⁰⁰ It also was important because it drew on the longstanding association of protestant theology and good deeds to foreground women's work.⁴⁰¹ Temperance was part of a broader conversation about the role of women in religious work.

5.10 Fighting Temperance also protected Women's Work

It is a mistake to see women as unilateral fans of prohibition and temperance. While members of the temperance movement itself were primarily middle and upper class white women, urban and rural, who saw themselves as saving the husbands of wives from the lower classes from the scourge of alcoholism. Nonetheless, a great many women from a variety of socioeconomic statuses drank before and during prohibition, and indeed this drinking become more public during prohibition.⁴⁰² Anti-

400. Willard's unique spin on social gospel theology, which while concerned with poverty, disease and inequality was often very socially conservative, was to understand the figure of Christ as representative of gender equality, and interpret the Genesis story in the same light. Frances Elizabeth Willard, Carolyn De Swarte Gifford, and Woman's Christian Temperance Union, *The Ideal of "the New Woman" According to the Woman's Christian Temperance Union* (Garland Pub., 1988).

401. For example, women combined temperance movements with advocacy of labor protections, public libraries for working people and cross-class association, particularly in western contexts. Dale E. Soden, "The Women's Christian Temperance Movement in the Pacific Northwest" in Edwards and Gifford, *Gender and the Social Gospel*.

402. Catherine Gilbert Murdock, *Domesticating Drink: Women, Men, and Alcohol in America, 1870-1940* (JHU Press, 2001).

temperance women also used home protectionist logic as a basis for their drive to repeal. Non-elite women were also divided on the issue of temperance; it is overly simplistic to identify the lower classes with consumption and the middle and upper with forbearance. This does not eliminate the very real tensions around immigration and urbanization which allowed prohibition to gain traction, particularly with the same demographics who would make up the progressive movement that also aimed at improving the lives of the working poor. The auxiliary arm of the 1840's Washingtonian Temperance club, the Martha Washington Society, was made up of primarily working class and often rural members, who combined advocacy with direct support of families through shared housework, donated food and unemployment support for men.⁴⁰³ While they generally avoided direct political action, they connected the seemingly personal vices of alcoholism, which male Washingtonians pledged to abstain from, with a broader responsibility of society to insure that working families had the resources necessary to avoid temptation. They also rejected common practices of removing and shaming female inebriates and approached alcohol not as a weakness of the lower classes, but instead a problem intimately tied up with poverty, lack of social mobility and

403. Jack S. Blocker, David M. Fahey, and Ian R. Tyrrell, *Alcohol and Temperance in Modern History: An International Encyclopedia* (ABC-CLIO, 2003), 300-301.

the first round of industrialization.⁴⁰⁴ Women of the working classes were also opponents of prohibition, as well as moderate drinkers.

Women's opposition to temperance, and their reasons for drinking in public, also show a bid for fuller inclusion and suggest that the saloon was not merely a place of vice, but a masculine political sphere that was destroyed to make room for public spaces no longer segregated by gender. Temperance, while certainly not as supported by women as its opponents made it seem, was about challenging the male monopoly on public space which was itself built on the claims of occupation and labor. Popular culture understood that working men deserved a drink at the end of the day because they worked so terribly hard, and they deserved a space to develop bonds, political and otherwise, with other men. Women responded not only with temperance, but also with the construction of their own public spheres, particularly in the form of clubs, settlement houses and even drinking circles.⁴⁰⁵ And, interestingly, these counterpublics were not only able to circulate their own texts, but to develop a critique of the dominant public sphere and thus support massive social change. Rejecting the masculine spaces of the

404. Ibid., 401.

405. The Molly Pitcher club, for example, combined charity work with pro-drinking rhetoric. In Boston, the Saturday Evening Girls Club circulated its own newspaper and met to discuss its contents. Kate Clifford Larson, "The Saturday Evening Girls: A Progressive Era Library Club and the Intellectual Life of Working Class and Immigrant Girls in Turn-of-the-Century Boston," *The Library Quarterly* 71, no. 2 (April 1, 2001): 195–230.

saloon, these groups of women nonetheless took up the mantle of publicity and democratic citizenship housed in shared conversation, even as they debate Prohibition.

5.11 Saloons as Masculine Publics

Anti-Saloon action was also a way to attack, particularly in immigrant communities, what has been called the “theaters of excessive machismo.”⁴⁰⁶ The masculine world of the Spaghetti Western was not far off, although oddly saloons were more open to women in the west than in the urbanizing northern cities. The saloon was so central to the social and political life of men that, as temperance movements gained steam, the need was seen to provide substitute institutions and spaces.⁴⁰⁷ These arguments sought “Substitutes for the Saloon”, the discussion of which provides at least a partial sociological understanding of the place of the bar in the lives of American urban men.⁴⁰⁸ The stance of its authors is clear, given the addition of an introduction that proclaims saloons “an unmitigated social evil” despite the report’s claims that they provide the

406. cited in Sandra K. Schackel, ed., *Western Women’s Lives: Continuity and Change in the Twentieth Century*, 1st ed. (University of New Mexico Press, 2003), 332.

407. One such call came from the conservative “Committee of Fifty” reports which were undertaken by prominent social scientists in an attempt to solve the technical and legal problems that alcohol were seen to cause, while ignoring the political ramifications of their recommendations, which were aimed at curtailing the growing power of the middle class. John J. Rumbarger, *Profits, Power, and Prohibition: Alcohol Reform and the Industrializing of America, 1800-1930* (SUNY Press, 1989).

408. Raymond Calkins and Committee of Fifty for the Investigation of the Liquor Problem, *Substitutes for the Saloon* (Houghton Mifflin Company, 1919).

central social insinuation for millions of Americans.⁴⁰⁹ Indeed, one of the anxieties that the report repeatedly reflects is the worry that saloons are serving to pull men (assumedly not the upper class writers of the reports) outside of the wholesome sphere of the home into the public space. The ideal of the conjugal family was not only applied to so called angels in the home, but also by elites towards the growing urban population of wage laborers. Indeed, the entire report is suffused with an elitist and technocratic tone, assuming that the lower classes cannot help themselves from drinking without the forceful intervention of the state, and aided by the growing world of philanthropic agencies led by individuals similar to the report writers.

Through this ideological fog, the report does help explain why the saloon was a central aspect of American political and social life in the 19th and early 20th century. The first, and perhaps most surprising claim, that the report makes is that saloons provide a gender segregated space that each individual requires given that “at times, he prefers the society of men to women.”⁴¹⁰ Along with the specific benefits of a purely masculine space, saloons were consistently tied to the growth of the standard work-week and the Taylorization of factory life. They are also described as sources of information, particularly the results of electoral and sporting competitions.⁴¹¹ Next, saloons offered bathrooms and “the only place a glass of water could be asked for and received

409. *Ibid.*, IV.

410. *Ibid.*, 67.

411. *Ibid.*, 13.

without fear of intrusion.”⁴¹² These physical needs (to which could be added the frequent provision of cheap or free lunch for drinking customers) were not publicly provided for at this time. The use of alcohol as a sedative against the stresses of urban life is also discussed; this is one reason that the committee is concerned about the social ramifications of prohibition. They reason that if workingmen and women are not exhausting themselves through physical exertion, they may become unruly. Instead, they will need alternative spaces where they can relax. They proposed the development of “community centers, club societies, moving pictures, improved dwelling conditions” as a way to curb drinking but provide for its social function.⁴¹³

However, the report primarily assumes that the functions of the public space of the saloon will be easily privatized, and do not need to be consciously replaced with any new public space. In this view, men turn to the home, “the natural social center,” and to work when the saloon is not available.⁴¹⁴ In other words, this report claims that the saloons are central sources of information, identity formation, economic transitions and political awakening do not actually need substitution, and that each worker can channel his or her needs to individual or familial pursuits, with the help of philanthropic charities and well-meaning technocrats. This is a very similar description to that of

412. *Ibid.*, xxii.

413. *Ibid.*, xxiv.

414. *Ibid.*, xix, xiv.

Habermas' Public Sphere.⁴¹⁵ Furthermore, the home is described as a natural space, rather than a construct attached to changing norms of family life that accompany (and abet) capitalist growth.

Saloons were also explicitly political- indeed it was often where you voted, and where the Chicago Machine emerged, as well as its relationship to the mob. However, saloons do not fit the full-idealized Habermasian public sphere model as class, political ideology or party, and even sometimes profession- not to mention of course gender segregated them. They were also spaces where you had to- however, cheaply- buy your way in. They were of course mainly racially and ethnically segregated, and often served as living rooms for the local tenements. But these saloons are still examples of multiple "counterpublics" with their own rules of discourse and sets of texts. If we accept the idea that publics in a pluralist world will be plural, perhaps this model is not so different from our own situation. These salons provided their own set of challenges to the type of politics that grew out of their discussions and politicization.

415. It is not a stretch to see the saloon as the most vibrant public sphere in early 20th century America, in a strange twist on the original French meaning of the term. As in public sphere theory, saloons were a space where people met as repetitive equals, and discussed the news of the day. Historians describe them as "the poor man's club" Jon M. Kingsdale, "The 'Poor Man's Club': Social Functions of the Urban Working-Class Saloon," *American Quarterly* 25, no. 4 (October 1, 1973): 472–489, doi:10.2307/2711634, 473. and the "social heart centre of the camp" Elliott West, *The Saloon on the Rocky Mountain Mining Frontier* (U of Nebraska Press, 1996), 73. As suggested by these titles, bars were divided by locality, class and even profession, which of course limit their democratic character.

If bars and saloon culture served to cement a masculine sphere unavailable to women, and indeed the club did in a gendered segregated fashion so as well for wealthy men *and* women, who also drank, then deconstructing this paradigm was imperative for the social and political equality of women. Indeed, one of the lost legacies of prohibition has been women's public spaces, and the drinking that happened there. When early temperance activists entered the saloon, at first to study it, they were greeted with shouts of "Whore!" and other disparagements, even prior to their protests. It was not merely that they wished to pray in the saloon, or to take a hatchet to it, but that they dared to trespass into a space reserved for working males.

Much iconography of temperance and advocating temperance could be mistaken at first glance for women seeking to enter the saloon and have a seat. In a metaphorical sense, this is accurate, even if the bar is a synecdoche for other forums of political privilege. The lack of women in these spaces was proclaimed a dearth of morality, but it also was a lack of representation in a crucial social space, that soon became political. As women could not gain entrance to these spaces, even when physically allowed, they set up pickets outside or, as in the case of Carrie Nation, destroyed the limited space of the saloon. In doing so, they created a vacuum that has only been partially filled.

And, before and during prohibition, women did drink and did place themselves into the space of the bar or into spaces for their own consumption of alcohol and politics, with or without men. In particular, the attractions of the free lunch often given

with drinks drew many factory workers of all genders in.⁴¹⁶ In other words, working women saw alcohol as a part of the reward for working hard, and also appreciated the incumbent benefits that well-apportioned public spheres could offer. In taking their place in the saloon as well as the workplace, they claimed the prerogatives usually reserved for men.

Women also developed their own exclusive drinking practices. “Working-class women did indeed drink publicly, not only in bars but in other locations open to public view such as tenement roof tops, stoops, and courtyards as well as city parks, alleyways, and waterfront wharves.”⁴¹⁷ In particular, families in tenement housing often drank together at night, or in groups of women gathered around a shared alcoholic beverage while children played nearby- this was known colloquially as a “can racket.”⁴¹⁸ The very idea of a “growler”- a beer jug taken to go- was also associated with women at home, doing household chores, and getting together. Often this drinking occurred while

416. A description of such an event in from a factory worker: “The following day, Richardson, Mooney, and four others ‘filed in the ladies’ entrance’ of Devlin’s, seated themselves in the backroom, and ordered ‘Six beers with the trimmings!’ Greatly enjoying the hearty meal, Richardson declared, ‘I instantly determined never again to blame a working man or woman for dining in a saloon in preference to the more godly and respectable dairy-lunch room.’ Further, she confessed that ‘I, who never before could endure the sight or smell of beer, found myself draining my ‘schooner’ as eagerly as Mrs Mooney herself. Soon, she and her female co-workers were making daily excursions to Devlin’s where, Richardson observed, ‘I had become a regular patron.’” Dorothy Richardson, *The Long Day: The Story of a New York Working Girl, as Told by Herself* (Century Company, 1905), 259.

417. Madelon Powers, “Women and Public Drinking, 1890-1920,” *History Today* 45 (1995): 46

418. Jacob August Riis and Luc Sante, *How the Other Half Lives: Studies Among the Tenements of New York* (Penguin, 1901), 226.

childcare or other household labor was shared, in a reflection of the linkage of work and dessert, refracted through the home. While these spaces were not overtly political, nor were they private, and they afforded women the ability to expose themselves as public beings whose lives mattered. For women who did not work, inside or outside of the home, drinking also became more common and public. While the saloon had been in general off limits to women, the speakeasy was coed.

5.12 Women gained economic power by exploiting Prohibition

Women also changed their relationship to work and political standing through economic endeavors related to prohibition.⁴¹⁹ The association of women with home production made bootlegging an acceptable, if illegal, occupation for women.⁴²⁰ While employment of all sorts was becoming more common for women, particularly in cities, it was hardly a normal part of most women's lives. However, common practices of earning money by taking on boarders, laundering clothes and watching children continued through this time period, augmented by alcohol related schemes. One reason that

419. Many women ran taverns. Peter Thompson, *Rum Punch & Revolution* (University of Pennsylvania Press, 1999), 44.

420. Mary Murphy, "Bootlegging Mothers and Drinking Daughters: Gender and Prohibition in Butte, Montana," *American Quarterly* 46, no. 2 (June 1, 1994): 174–194, doi:10.2307/2713337.

the speakeasies were co-ed may be that women often ran them.⁴²¹ There is also some evidence that female bootleggers were less likely to be charged or incarcerated than their male counterparts.⁴²² For black women engaged in bootlegging and other clandestine activities, known as “mojo women,” underground economies were sometimes much more welcoming than the formal labor market.⁴²³ Most women involved in bootlegging or running illegal bars were from what we might now call minority groups, including immigrants from Italy, Germany, Ireland and Poland.⁴²⁴ Bootlegging provided a unique route to economic independence.

There are many ways to analyze the openness of illegal alcohol related activity to women; my suggestion is that the openness of alternative labor and entrepreneurial markets to women, and especially to black women whose experience was uniquely configured racial and gender categories, suggests that the category of “women’s work”

421. Sandra Schackel, *Western Women’s Lives*. She argues that women who ran and attended speakeasies were conscious of the transgressive nature of this activity, and this inspired women’s clubs to hold annual events at bars or accompanied by alcohol. 342-343.

422. Louisiana Historical Association, *Louisiana History* (Louisiana Historical Association, 2000). It is possible that women were benefiting from assumptions about their “natural” relationships to household production, or some sort of chivalry. (Or, perhaps they were sneaky bootleggers.)

423. These women “openly challenged gender race, and sexuality in their work and leisure lives” (53); for example, “Queen” Odessa Marie Madre developed an empire of “jook joints” in Washington D.C., using her wealth to gain access to privileged social and political spheres. Black Women and Work Collective, *Sister Circle: Black Women and Work* (Rutgers University Press, 2002), 53.

424. Tanya Marie Sanchez, “The Feminine Side of Bootlegging,” *Louisiana History: The Journal of the Louisiana Historical Association* 41, no. 4 (October 1, 2000): 403–433.

is more flexible than might be imagined. While the association of women with the body, households, reproduction and care is usually seen as a hindrance, keeping women in a private space, it also means that work related to private spaces (as alcohol was during prohibition) is open to women. Furthermore, the slipperiness of the distinction between public and private is evident here, both because the women could use their private and even secret businesses to gain public standing and because consumption is part of a public economy or social practices of togetherness. Finally, the movement of women into the formal economy, as in the working women's stories above, granted them access to the formerly segregated space of the saloon itself, as well as to the newly developed working women's drinking groups.

The ability of women to change their social, political and economic situations through their work was reflected also in the trope (and actual experience) of the "flapper." While the bobbed hair that women adopted is often seen as a fad, it was in part made necessary by women's work in factories, where loose hair was a danger. The figure of the flapper, with its incumbent controversy over notions of femininity, was an international phenomenon.⁴²⁵ In the United States, the flapper was a symbol of the new

425. At least in the French case, the preoccupation with women's hair reflected fears about changing gender roles and "a crisis of domesticity" created by the movement of women into the workforce during the war. Mary Louise Roberts, "Samson and Delilah Revisited: The Politics of Women's Fashion in 1920s France," *The American Historical Review* 98, no. 3 (June 1, 1993): 657–684, doi:10.2307/2167545., 661). This same trend is visible in Weimar Germany, and traces the efforts of the government to curb the workforce participation of women in part by systematically excluding and degrading the "new woman" figure

status of women, and often associated with upper class indolence. However, the flapper was not merely a symbol of changing sexual mores, but a reflection of the centrality of work to women's struggle for political recognition.

Indeed, one of the reasons that the prohibitions and temperance activists struggled to hold on to their monumental accomplishment of the 18th amendment was their growing reputation as sterile, shrill and sexless. That their central message of home protection was not about moral purity, but about providing materially for women was ignored. Just as they ignored how the very women they sought to help were themselves using the situation of prohibition to protect themselves. At the same time, the flapper image quickly lost its association with factory work and become linked with Coco Chanel and the *garçonne*, effectively limits its political relevance. Both the temperance women and the workingwomen who bootlegged or cut their hair were staking a claim to the importance of their work and legitimacy of their role in political and economic institutions. But the false choice presented by prohibition, as framed by national debates and newspaper coverage, was between a sexless, older moralist and a young, dynamic (and useless) flapper. The home protectionist and the working girl were nowhere to be seen. The flapper (although also challenging mores, particularly sexual ones) was hemmed in by her devotion to male sexuality, and therefore re-inscribed into the pri-

through natalist and employment policies. E. Giamou, "The New Woman-Myth or Reality?," *By Neil Wilson, Editor in Chief* (n.d.): 83.

vate sphere of the bedroom. In other words, the concerns of women were seen as pre-political, and their movement in the public space pollutes both it and them- and leads to bad policy. Read as a demand for respect for wages, and for a public space outside of the home, perhaps even coeducational working and learning environments, then the end of Prohibition is more complex, and the easy declaration of its failure is a mistake.

The repeal of Prohibition occurred in part because the bid to recoup reproductive labor in the form of passed on wages from head of household men did not function; that is to say, the legal prohibition of drink did not destroy the slums or poverty. Even if enforcement had been draconian and drinking levels for all classes fallen to nothing, this is likely because the gendered struggle over labor and wages was not a struggle that could be ameliorated by shifts in personal behavior of husbands or wives. While drinking levels were reduced, and women gained new public voice after the 19th amendment and growing workforce participation, even in the interwar period, domestic violence, poverty, ill health and lack of education persisted. Indeed, we might thank Prohibition for striking a blow against the concept that the poor were poor because of the moral choices, such as drink, that they made. Instead both gendered inequality within families and broader inequality between classes grew even as working class men had less access to drink and women more to the political sphere.

Thus men and women worked together to repeal the 18th amendment, just as they had to pass it, and still in the interest of protecting (or regulating) poor families and preserving the rule of law. It turned out that constitutional amendments did not au-

tomatically produce in citizens the changes they wish to see; lifelong temperance activists like John Rockefeller Jr. publicly argued for repeal out of a concern that “respect for all law has been greatly lessened.”⁴²⁶ The Women’s Organization for National Prohibition Reform (WONPR), which formed in the 1920’s advanced concern about the solidity of law as well as reiterating concerns about children and families. Pauline Sabine, head of WONPR and a former temperance activist, was particularly vocal about the problem of essentialism in temperance circles, taking umbrage at the way that Temperance advocates claimed to speak for all women. Sabine spoke about the growing tendency of teens and children to obtain drinks in illegal speakeasies, noting that saloons had at least been regulated to prevent the drinking of minors.⁴²⁷ Indeed, it was the support of women like Sabine, who now had the power to vote, which helped place repeal in the democratic platform of 1933, and helped insure that states repealed their local prohibition laws in the years to come. They would also continue to push to protect and remunerate women, ultimately turning feminist movements away from the moral high ground to claiming the right to work outside the home, which of course produced its own contradictions for family life that we still struggle with today.

426 David E. Kyvig and Honorée Fanonne Jeffers, *Repealing National Prohibition* (Kent State University Press, 2000), 165.

427. Grace Root, *Women and Repeal: The Story of the Women’s Organization for National Prohibition Reform* (NY: Harper and Brothers, 1934).

The inability of Prohibition to solve the problems of household labor perhaps also reflects the fact that, for certain groups of women, it had long been expected that they would labor in and outside of the home. The legacy of slavery, first reflected in anti-vagrancy laws applied to black women and not white ones in the South, lingered in the form of assumptions about who was expected to work outside the home.⁴²⁸ For these families, the drive for prohibition as a way to reward labor in the home did not reflect the reality of their situation, particularly given the high levels of unemployment for African American men who were often partnered with African American women. Addressing household labor would need to be a much more direct process that attempting to reward women through their husbands, a tactic that shored up the existing power hierarchies and reinforced the clearly false notion that women did not work.

5.13 Liberal Citizenship Reformulated by the work of women

The case of prohibition helps illuminate the complexities of the relationships between different publics as they are experienced on the ground. It also helps illuminate a central difficulty in the public sphere literature. On one hand, the idea of a public sphere helps us map the potential distance between the state, the market economy and something we might call independent civil society. On the other, the concept of a public sphere and its model of a certain type of rational discourse is a way of establishing

⁴²⁸. Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (Hill and Wang, 1999) See Ch. 3.

status and distinction, even as it denies this on its face. In bracketing social status, as well as affect, religion, subject position and locality, whole swaths of the population are inadmissible by skill if not already by status.

In the prohibition and temperance case, women (and men) sought social change not (only) through rational discourse. They also intentionally deployed religious and emotional arguments to support their case. This was evidence in the first round of occupations of saloons, where women wept, prayed and begged. While this was certainly an attempt to use moral suasion, it was also an affront to the type of masculine public sphere contained within the saloon, where such moralizing was inadmissible. Even in the violent attacks of Carrie Nation and her hammer, the rejection of the rules of the masculine public sphere is clear. They also sought to create themselves the sort of spaces they wanted to live in, a strategy also taken up by Occupy Wall Street types. Little huts were taken from space to space, and temperance leagues and unions developed from these huts into longstanding organizations. The WCTU, the most famous of all, actually did a great deal of work unrelated to temperance, pushing for girls' education and raising the age of sexual consent from 10-16. These spaces made have been built around one issue, laced with moral issues and very class stratified, but they became more than that.

And, it was a space where women claimed the validity of the work they did in terms of admissibility to the public sphere. Of course, this was advocacy of one class for another, without any actual consultation into what the "working class" women who

were the symbols of the movement, and whose pictures were frequently displayed, wanted. Domestic violence, poverty, hunger, insecurity- all were tied to alcohol. Indeed, it was as if the would-be social reformers fantasized that it was a mere lack of self-control that kept the poor immigrants drunk. The roots of the progressive movement, and perhaps its biggest failings, lie in the desire to improve the lot of the lower classes, without necessarily questioning the structures that produced class. So, as one critic of temperance put it, why do we assume that drunkenness leads to poverty, and not the other way around? Certainly, tensions caused by rapid urbanization and industrialization- tensions that prompted changes in gender mores as well are made visible in this argument. And yet, under it all, is the idea that women who work, both physically and as care workers for the family, as those who are responsible for the home, deserve to be rewarded, both economically and socially.

Lack of the right type of work renders people superfluous to the political and social order, even if they are legally give the option of participating. The wrong type of work in this situation was women's work in the home, which was so devalued that it received little or no recompense, except in the form of companionate marriages. When partners in these marriages failed to support the work of wives materially or spiritually, women responded by seeking to command this support using the power of the state. To do so, they relied on problematic but powerful tropes about domestic life and home protection, which belied underlying radical claims that amounted to wages for housework. They also sought to escape the trap of shrill reformer or brainless flapper, partic-

ularly if they were some of the many women who broadened their economic or social worlds during or after prohibition.

5.14 Complicating Intersectional Analysis while considering Women's Work

As discussed in the introduction, Intersectionality has been the central contribution of the third wave of feminism activism and theory, seeking to understand how various oppressions or subject positions interrelate. My consideration of women during temperance affirms the intersectional commitment to “historical specificity in our analyses warns of a social science ‘theory of everything...’ and is “already a method of social justice.”⁴²⁹ In particular, understanding temperance and prohibition as an attempt to garner respect and reward for women's work in the household helps us see that its failure to do so rests in the political theory of its proponents. For these primarily upper class, educated and initially rural women, the problem was that men were working outside the home and failing to reward their wives' work within it. But this was not the same problem faced by so many workingwomen, and the slowly growing cadre of single female head of households. It was especially not the problem faced by those working in the do-

429. Sara Diaz, Rebecca Clark Mane, and Martha González, “Intersectionality in Context: Three Cases for the Specificity of Intersectionality from the Perspective of Feminists in the Americas,” in *Intersectionality und Kritik*, ed. Vera Kallenberg, Jennifer Meyer, and Johanna M. Müller (Springer Fachmedien Wiesbaden, 2013), 75.

mestic industries, whose paid labor was devalued through its association with the free labor of wives, and therefore would be untouched by Prohibition, even if it had been successful in rewarding more women's work in the home. Without thinking about work, and how the varieties of women's work (and what was counted as work) mattered, an analysis of this event is impossible. Intersectional analysts should think about work, which brings together so much of their interests in incorporating situated knowledges because it is so central to identity and politics, as a component of the interlocking pieces that order oppression.⁴³⁰

5.15 The Unique status of Women's Work and Labor

This can be even more clearly if we examine that controversies over *Muller v. Oregon* (1908) helps illuminate why prohibition, and its end, was understood as a choice between moral absolutism and open sexuality; both approaches, while substantive changes in gender roles, did not undermine the close association between white masculinity and work. *Muller* comes in the same line of cases as the famous *Lochner vs. New York* (1905).⁴³¹ *Lochner* and *Muller* were two attempts to curb state regulation of business. Three years after striking down hour limiting legislation in *Lochner*, in *Mul-*

430. This is the approach, although she does not call it Intersectionality, taken by Iris Marion Young in her influential piece "The Five Faces of Oppression" Iris Marion Young, *Justice and the Politics of Difference* (Princeton University Press, 1990), 39-63.

431. See Chapter Four for an extended discussion of the centrality of *Lochner*.

ler, the justices upheld an Oregon regulation limiting the hours that women could work. In the end, it turned out, the gender of the workers made a difference in the ability of the state to exercise its police powers. “[W]holesome bread...” Peckham wrote in one of the most memorable phrases of American constitutional history, “...does not depend upon whether the baker works but ten hours per day or only sixty hours a week.” Wholesome babies, apparently, do.

Gender was the deciding factor because the roles of women and men, not just in the labor force, but also in society as a whole, were seen as fundamentally different. This is the case in which Brandeis famously included his brief discussing the social science research on women and health, and reflecting ungrounded assumptions about the natural role of women.⁴³²

As described above, the paternalism of the state takes the form of banning women from dangerous work, such as that in factories and laundries, while allowing less formalized labor arrangements to stand. One might note the deep irony of concern for the labor of potential mothers given the history of working enslaved women in the South all the way to term. In the previous cases dealing with men, the fact that paid la-

432 But so too are the claims that: “That woman’s physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity continuance for a long time on her feet at work, repeating this from day to day, tends to injurious effects upon the body, and as healthy mothers are essential to vigorous offspring, the physical well-being of woman becomes an object of public interest and care in order to preserve the strength and vigor of the race.”

bor was potentially dangerous or inimical to health (as much work was and is), did not invalidate the individual's "right to contract" and to thus assume potential risks if he saw fit. Women were assumedly not allowed to take the same risks with their bodies, because these bodies belonged to the polity as a whole in their reproductive capacity. Women's bodies are thus configured as fundamentally legislatable, and inherently (even without interest in pregnancy) suspect in the terms of constitutional law. That is to say that their protection served was seen as an acceptable use of the police powers of the state.

Muller exposes the tension surrounding gender, class and labor. On one hand, women are working, especially in factory and laundry jobs that are increasingly industrialized and dangerous. Part of this tension is class based; on one hand, women are cast as weak, nervous and prone to inexplicable medical problems. On the other, they are seen as tough and hearty, particularly lower class and working women. In *Muller*, these two conceptions of women are paradoxically both affirmed, and thus we end up with a law that still allows what one must conclude is a very long day indeed (ten hours) of working at a factory. The court is faced with the uncomfortable fact that many women do work, and much longer hours than ten, which suggests that the reproductive bodies of the poor as less valuable, although no less available to regulation, than the wealthy. If working for more than ten hours is bad for mothers, then no doubt eight hours is not much better; surely the norm promoted here is non-work for women, at least officially.

That woman, of many classes, have been working ten hour days since (at least) the invention of agriculture is conveniently forgotten.

Muller suggests that the state struggled to manage and regulate the work of women, inside and outside of the home, and yet wanted to retain a normative model where women's only work is the reproduction of children for society. This reproduction was more valuable when done by those who did not have to work; assumedly these women of leisure faced none of the hardships described in the case and would thus bear more healthy children. Aside from the general paternalism and perhaps start of the still prevalent tendency of the state to claim control of women's bodies in the name of children, this case shows the same tensions around women's work exposed by prohibition.

Muller denies the hard work that women do in the home, which is the same hard work that temperance activists help to reward in the form of the family wage funneled through a sober husband, and in theory bolstered by other progressive reforms in the areas of child labor, prostitution, pure food, sanitation and housing. At the same time, it expresses concern for the potential movement of women into the hard waged work that is reserved for men, and supposed to cement their commitment to families and the polity through its guarantee of masculine independence. Just as *Lochner* asserts this independence in the form of the "right to contract," *Muller* denies the same form of inclusion and citizenship to women, whose "right to contract" is superseded by duties to home and country.

Just as in my rereading of *Lochner* and substantive due process as potentially supporting a collective right to a network of support for meaningful work, which is not limited to paid labor, *Muller's* reflection of tensions between family and work life is still pertinent. It is not acceptable to refuse an entire class of individuals participation in the workplace, however exploitative it may be to draw on their "special talents." However, it may be reasonable to divorce *Muller* from its naturalized imposition of sexist gender roles and instead understand the importance of thinking work and family together when developing policy. *Muller* offends modern sensibilities, just as *Lochner* does, but the actual importance of families, if not defined in the limited sense of a male breadwinner and female homemaker, in relation to work *is* key. In particular, the linkage of this sort of concern with Equal Protection language helps us to protect or advocate on behalf of guardians and children, broadly defined, without limiting either by means of biology or custom. This might produce a work that would not be harmful to the raising of children, but supportive of this endeavor for anyone who wanted to undertake it, whether partners, married couples, friends or some as-yet unimagined family grouping.

CHAPTER SIX MEETING THE CHALLENGES OF CONTEMPORARY WORK BY REDEFINING WORK, LABOR AND POLITICS IN HANNAH ARENDT.

6.1 Why Arendt?

If Shays' showed support for the work of citizenship as constitutional thinking, and Temperance the way that asking for recognition for labor entails the building of new public spheres, open to those who perform that sort of labor, we still need to think about how to apply these insights in the face of the contemporary challenges of precarity, the ubiquity of work, depoliticalization and the problem of reproductive labor.⁴³³ Each of these challenges place the worker outside of the privileged space of participatory, deliberative and agonistic citizenship, but the "who, what and where" of citizenship can be greatly ameliorated by developing a concept of constitutive citizenship, which focuses on how to build a shared public (rather than what to say within it), and recognizes the importance of all people engaging in all sorts of labor and work, political and reproductive. This is still a version of a public sphere argument, even if the focus is on building the public sphere, and even if more types of speech than ideal or public reason are let inside it, but this sort of public sphere is derived from the work of Hannah Arendt, rather than Habermas.

To understand how Arendt helps us confront these four challenges, a brief discussion of how she is generally seen by commentators will help set up my unique reading;

433. See Chapter 3.

from there, I'll discuss how her theory helps us with three of the four challenges, and leaves for us most pressingly the fourth. Arendt herself is dealing with these four challenges in other terms and through an engagement with the history of political philosophy. Precarity she understands as superfluousness, as discussed in the introduction, which leads us to the need to build a shared public space. She is explicitly concerned about the mutual penetration of public and private, which she labels the "social," but it is often overlooked that this concern is not merely that the public space of action is eclipsed, but that the durable processes of work cease to exist. I read her concept of "privacy" as a rich and full one, indicating the resistance of sharp definitions between public and private and instead the type of constitutive citizenship the Regulators and temperance activists pursued, which make work political.

6.2 Why Arendt is considered a Theorist of Political Action

The dominant understanding of Hannah Arendt is as a thinker of boundaries who desires the separation of public and private life, while valuing the public and political over the private concerns of the household. This chapter offers a counter reading of Arendt, arguing that we should also look at her other categories in *The Human Condition*: labor and work. Her public sphere citizen is defined by his or her ability to move between politicized and non-politicized spaces and to indeed create and nurture the capacity for politics. This examination gives us, on one hand, a fuller appreciation for the central importance of world building and reproductive citizenship in her thought. On the other, it

reprises persistent questions about the implications of Arendt's thought when considering gender and class in terms of reproductive labor, which may ultimately push us beyond Arendt for projects of democratic citizenship.

The most influential commentaries on Arendt, despite varied perspectives and interpretative strategies, generally agree that her theory is focused on politics on action. "Her heroic and agonistic conception" is foregrounded as the apex of political thought, grounding the rest of her theoretical framework.⁴³⁴ This framework seeks to map: "the nature of political action, the positive ontological role of the public realm, the nature of political judgment, and the conditions for an antiauthoritarian, antifoundational democratic politics," which might make it particularly attractive for contemporary life.⁴³⁵ Alternately, Arendt can be seen as "reluctantly modern," a characterization that highlights both the sense of nostalgic loss and critical theory edge of her work.⁴³⁶ This view to a certain extent counters the idea that Arendt is filled with "polis envy," although even as a reluc-

434. George Kateb, *Hannah Arendt, Politics, Conscience, Evil* (Rowman & Allanheld, 1984), 43.

435. Dana Villa, *Arendt and Heidegger* (Princeton University Press, 1995), 13.

436. Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt*, Revised (Rowman & Littlefield Publishers, 2003). Benhabib draws on the socio-historical background of Arendt both as a German Jew and as a student of German Philosophical Traditions, most importantly Heidegger. She is understood as reluctantly modern because world events, namely World War II making continuing without a break with tradition impossible. Benhabib, argues that Arendt's own commitments should lead to her something more like a Habermasian public sphere than her own idea of the public realm- and that action is more common than unique or extraordinary.

tant modernist, Arendt is argued to privilege action to the detriment of all other life.⁴³⁷ Even when the focus is shifted to the “social,” as in the famous treatment of it as an “attack of the blob,” we find Arendtian action politics unchallenged as the primarily space or mode worth promoting.⁴³⁸ While it is undoubtedly true that political action is important to Arendt, focusing too exclusively on the promotion of heroic deeds causes us to lose sight of the rest of her ideas, which may be required for action to be possible.

6.3 Precarious Labor as Arendtian Superfluosness

Arendt gives us an understanding of why labor force precarity⁴³⁹ is inherently a political problem, rather than a private issue, although she conceives of the problem as the problem of the superfluous. Superfluosness, along with “loneliness,” “terror,” and “uprootedness” make up the “spring” or organizing principle of totalitarianism, although they emerge from industrialization and colonialism.⁴⁴⁰ To be superfluous means “not to

437. This phallogentric pun has been credited to Jean Bethke Elshtain and also Bonnie Honig, but is defined as “a tendency to view modern political life as a precipitous fall from the glories of a highly mythologized Periclean heyday” Richard Wolin, *Heidegger’s Children: Hannah Arendt, Karl Löwith, Hans Jonas, and Herbert Marcuse* (Princeton University Press, 2003), 69.

438. Hanna Fenichel Pitkin, *The Attack of the Blob: Hannah Arendt’s Concept of the Social* (University of Chicago Press, 2000), 475.

439. See Chapter Three for “precarity” as one of the four challenges of contemporary work.

440. Hannah Arendt, *The Origins of Totalitarianism* (Harcourt, Brace, Jovanovich, 1973), Ch. 9. Arendt introduces this concept in the context of a critique of human rights at a pivotal juncture in the massive *Origins of Totalitarianism*, her exploration of the dynamics that allowed for the rise of the Nazi party in Germany and Stalin in the U.S.S.R.

belong to the world at all” and in that it is worse that to be lonely or uprooted, and this non-belonging is a political lack. The perfection of a totalitarian system would have no need of human beings whatsoever, with their unpredictability and needs.⁴⁴¹ Arendt explicitly links superfluousness with capitalism and unemployment, discussing throughout the text how large scale mining operations and imperialist projects required massive mobile laboring populations who lacked basic protections and would be discarded if injured or after the project was complete.⁴⁴² Today, unemployment is a central experience of rootlessness and superfluousness, and make the precarious vulnerable to domination and exploitation.⁴⁴³

Arendt argues that superfluousness is established on a grand scale because the “Rights of Man...had never been politically secured but merely proclaimed and have, in their traditional form, lost all validity.”⁴⁴⁴ In other words, “rights talk”,⁴⁴⁵ particularly

441. Indeed, she argues that “[t]otalitarianism strives not toward despotic rule over men, but toward a system in which men are superfluous.” Ibid.,137

442. “[I]n a period of political disintegration suddenly and unexpectedly made hundreds of thousands of human beings homeless, stateless, outlawed and unwanted, while millions of human beings were made economically superfluous and socially burdensome by unemployment.” (Ibid, 446).

443. This is true for Arendt, but also as I’ve discussed in Chapter Three. Today’s worker can be exploited or dominated because, except in their fleeting capacity as laborers, political regimes have no need for them and thus no reason to recognize or construct their rights. They are also without voice, because their value as workers keeps them in the economic rather than political spheres. This is why the problem of precarity is a problem for democratic citizenship.

444. Ibid., 446.

427. This is a term of Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (Simon and Schuster, 2008). Her concern is not with the hollowness of rights talk, but with its ability to convert all other types of political speech and action into its own terms, which she finds lacking. She claims

when it relies on a concept of natural law, covers over the political and constructed nature of human rights, which are only valid for individuals who are recognized and protected by a political body. Unless they are “politically secured,” rights are meaningless. It is a failure of politics as well as theory that allows for the wide scale uprooting of human beings, such that they lack, even if formally citizens, a political space in which to protest this status.

For Arendt, the refugee is the paradigmatic figure of superfluosity of the 20th century. Lacking a formal place in which his or her voice can be heard politically, the refugee is reduced to bare humanity and, paradoxically, because this is when they are most needed, this is the state in which human rights are least existent. For a contemporary analysis, the refugee may still be important, but so too are figures like the economic migrant or the unemployed.⁴⁴⁶ Both the undocumented and the unemployed push the boundaries of Arendt’s ideas, because they may be accorded status citizenship in either the country from whence they came or the one in which they live and therefore are not technically without a political space. However, they are rendered superfluous by the same

that: “[r]ights talk itself is relatively impervious to other more complex languages we still speak in less public contexts, but it seeps into them, carrying the rights mentality into spheres of American society where a sense of personal responsibility and of civic obligation traditionally have been nourished” (x).

446. For an application to the status of undocumented workers in the United States, see Cristina Beltran, “Going Public: Hannah Arendt, Immigrant Action, and the Space of Appearance,” *Political Theory* 37, no. 5 (October 1, 2009): 595–622,

mechanisms that excluded the refugee from the human community, and part of this mechanism is the systematic devaluation of the type of work they do or lack of work. Once citizens have legal standing as members of the United States, their rights are understood as guaranteed, enforceable by legislation or adjudication, and social barriers surmountable, if not by sheer will, than by law. Arendt's original development of the concept of superfluousness works along these same lines, as she identifies the condition of the stateless refugee, without political home, as a condition of the superfluous. Because the refugee does not have standing in any political body, his or her status is below that of a criminal, who at least is legally present. It is in this context that she introduces the concept of the "right to have rights" has been taken to mean the right to inclusion in a formal political body- a right to citizenship- and has been powerfully invoked by refugees and supreme court justices alike⁴⁴⁷.

However, it is a mistake to assume in our contemporary context that "the right to have rights" is answered by status citizenship automatically. To see why, we should look closer at Arendt's theoretical claims. First of all, notice that refugees are not *de jure* stateless, but are made "essentially stateless" by their relationship to their country of legal membership. What is required is membership in "some kind of organized community;"

447. Arendt, *Origins*, 296. For an argument that Arendt understands this to refer to the struggle of potential right bearers, see James D. Ingram, "What Is a 'right to Have Rights'? Three Images of the Politics of Human Rights," *American Political Science Review* 102, no. 04 (2008): 401-416.

indeed, we might ask whether refugee camps can themselves develop this sort of community on their own, as in the cases of long term refugee camps.⁴⁴⁸ The refugee experience that Arendt herself underwent occurred not because no state would recognize her, but because Germany systematically stripped Jewish people and other “undesirables” of their status.⁴⁴⁹ While Arendt identifies the formal exclusion or loss of status citizenship as a key moment in the process of dehumanization, or reduction to bare life, she recognizes that the issue is not status, but rather having a name and voice: a place, from which to speak to a community who hears.

Superfluosity is now experienced not only by the stateless, but also by the marginalized who are formally citizens. These exclusions cut along many lines, but in the liberal capitalist society of the United States, cut most firmly along lines of work. To be a good citizen is to be a productive member of society, which means to be integrated into the labor market, either as a wage earner or entrepreneur. The unemployed, underemployed, part-time worker, welfare recipient, elderly job-seeker, black market worker and unremunerated worker in the home may also be citizens, but their work disqualifies them

448. Liisa Malkki, “National Geographic: The Rooting of Peoples and the Territorialization of National Identity Among Scholars and Refugees,” *Cultural Anthropology* 7, no. 1 (February 1, 1992): 24–44.

449. Note that this stripping was facilitated by the pariah/parvenus status of even assimilated Jewish people, as explored in the first half of *Origins of Totalitarianism* and in Hannah Arendt, *Rahel Varnhagen: The Life of a Jewish Woman-revised Edition*, trans. Richard Winston and Clara Winston, Revised (Mariner Books, 1974).

for full political participation and takes them places which do not provide the political space in which to be heard.⁴⁵⁰ To not be heard is to be quietly superfluous.

If work has become the most important aspect of politics, it has also become the most important piece of citizenship. Because waged work is a privileged form of social integration and provision for material needs, those without it or with too little of it are seen as lacking. Thus the unemployed are a frequent topic of discussion in the media, particularly in times when their ranks grow, but the discussion (and a great deal of the electoral politics) hinges on gaining employment. That there could be other ways of providing for oneself or building a political community is not considered. This is reflected in part by the widely shared assumption that the government, and the executive branch in particular, is responsible for ensuring that the economy is adding jobs. In terms of formal powers, the president has relatively little direct ability (outside of a period of national emergency) to alter the economy; even the liberal use of executive orders is little substitute for the broader “tax and spend” prerogative of the Legislative Branch.⁴⁵¹ However, it is also possible that employment has come under his or her prerogative because it has been so closely linked to good citizenship and rights in the United States, and the Presi-

450. Patrick Hayden, “Superfluous Humanity: An Arendtian Perspective on the Political Evil of Global Poverty,” *Millennium - Journal of International Studies* 35, no. 2 (March 1, 2007): 279–300, doi:10.1177/03058298070350021001. This article also associates the concept of superfluosity with the banality of evil, and notes the way that global poverty renders individuals superfluous, in part because of the world’s focus on political rights and abuses, via a process that is itself quiet and invisible.

221. A plausible case can be made that the President is viewed as responsible for the economy due to the general growth of presidential powers, and the transformative example of Franklin Delano Roosevelt.

dent bears responsibility for political membership. Instead of questioning this move, we might instead ask what it means for work to be so important politically.

To be without full-time waged work is not only to be potentially destitute, but also to be without a social role or legitimacy. This is clearly shown in the tendency of individuals to work even as transfer payments and welfare benefits would pay more than minimum wage. The superfluosity of the non-worker, or the wrong sort of worker, cannot be fixed (even were it economically feasible) by giving everyone a job. Above all, this is because the formal market economy depends on ascriptive characteristics for internal segmentation (such as the tendency of women to accept lower paid and benefit less part-time work because of their familial responsibilities). It also depends on the “free” labor of those working outside of the labor market, who are rewarded for their time spent in care work through intangible goods or the shared wages of their family members. Aside from these problems, this superfluosity is housed in the problematic identification of meaningful work with waged work. Work, waged or not, that builds a political space of possibility should be valued, while work that is not constitutive should not. Structural changes in how individuals meet their physical and social needs are required for this to be possible.

6.4 Arendt & The Ubiquity of Labor and the Social

Arendt is also concerned about a situation where what she calls labor has overtaken the other aspects of life, particularly politics and work. She explores this problem

through the term of the “social,” which she identifies as a condition in which both the private world of the household and the public world of political action are overtaken by concerns of society.⁴⁵² In this category she includes both the economy and mass publics, and argues that it is the amalgamation of the social that has taken up the space formerly understood as political. The ubiquity of work, discussed in the last chapter, is a similar sort of expansion of the economic and conformist, via self-surveillance, into all corners of life and might respond also to the curative Arendt provides in the form of the work of citizenship and a unique understanding of privacy.

The social is a famously frustrating concept in Arendt’s studies.⁴⁵³ Arendt first introduces the concept in the context of Aristotle’s formulation of humans as political animals, arguing that the common substitution of “social animal” betrays a problematic shift in society.⁴⁵⁴ She claims that “[t]he emergence of the social realm, which is neither private nor public, strictly speaking, is a relatively new phenomenon whose origin coincides with the emergence of the modern age and which found its political form in the nation-state.”⁴⁵⁵ The social is in essence substituting for politics, and intimately connected

452. Hannah Arendt, *The Human Condition* (University of Chicago Press, 1958). See Book 1, Chapters 4-6 for the discussion of the “social” and its relationship to both politics and the household.

453. Indeed, Pitkin’s formulation of it indicates both its importance and theoretically amorphousness. Pitkin, *The Attack of the Blob*.

454. Arendt, *Human Condition*, 23.

455. *Ibid.*, 28.

to the state form, carried out as a form of administration. The social is indicated by the dominance of economic logic and imperatives in all aspect of life, from work itself to time and education.⁴⁵⁶

Arendt's idea of the social is another way to understand the ubiquity of work experienced by citizens today, as both their political and personal lives are shot through with economic imperatives and the force of necessity. The problem of the social is not easily solved in Arendt's writing, which is perhaps why her association of the social with the mingling of public and private is assumed to mean that separation is required. There is little indication in the text that Arendt thinks that this would be possible. However, she does suggest openings for pushing back against the social, or the ubiquity of work, through her discussions of power and privacy.

These come in part through linking the social to some of her other categories and arguments, such as the violence and revolution.⁴⁵⁷ Just as with the social, the separation of these categories from the rest of life is much trickier than Arendt initially suggests. Furthermore, the development of the theme of political foundings demonstrates that the

456. Arendt even endorses Marx's understanding of substructures/structures, as particular to the form of the social state

457. Hannah Arendt, *On Violence*, 1st ed. (Harcourt Brace Javanovich, 1970); Hannah Arendt, *On Revolution*: 6 (Penguin, 1965).

key to understanding violence and revolution is not related to physical harm, but to what sort of constitutional building and maintenance occurs. Violence is associated with the social, whereas power bridges both the political and work, providing the linkage and separation required for each activity to be meaningful. This insight is actually supported by a re-reading of the concept of “work” in *THC*, which is usually interpreted as glorification of political action alone. Contrary to this view, the best Arendtian move is not pursuing novelty for the sake of its newness, but is cultivating the democratic habits and skills and created the shared spaces that make the spontaneous generation of power and solidarity of action possible.

Arendt presents a dichotomy between power and violence, although upon close examination this dichotomy is tenuous at best, both empirically and within Arendt’s own philosophical system.⁴⁵⁸ That this binary breaks down- and that this breakdown is acknowledged- in Arendt’s own work points to the likelihood that she is not as much confused as facing a confusing phenomenon, which may be only definable through a paradoxical binary. Her departure point is, parallel to her introduction of “the political” in *The Human Condition*, the innovations in scale and scope of the weaponry wielded by

458. Arendt, *On Violence*. This text considers student social movements of the 1960s, aimed pointedly at the then recently translated Frantz Fanon, *The Wretched of the Earth* (Grove Press, 1965), and its enthusiastic introduction written by John Paul Sartre.

nation states, particularly nuclear weapons.⁴⁵⁹ The destructive capabilities of the major world powers, as she wrote then and still applies today, are more than enough to destroy the earth several times over, both its living inhabitants and itself as material. For Arendt, there is no justification possible for such world-destroying power. Indeed, all justification requires an ability to understand the effects of our action. Thus she can suggest: “the very substance of violent action is ruled by the means/end category, whose chief characteristic, if applied to human affairs, has always been that the end is in danger of being overwhelmed by the means which it justifies and are needed to meet it.”⁴⁶⁰ In other words, we can undertake violence in the service of some good, but the unpredictable nature of human activity means that we cannot ever be sure of attaining said good, undermining the case for violence.⁴⁶¹ And she roots the rise of a misunderstanding of violence as predictable in the rise of social-scientific theorizing in the technocratic classes; in particular, she targets the set of theories emigrating from economics, which see human action as calculated. For Arendt, such rational choice thinking obscures all that is human about us.

The heart of this obfuscation is the denial of human action, which Arendt sees in the confusion between power and violence. “Power springs up whenever people get to-

459. Thus she says: “the technical development of the implements of violence has now reached the point where no political goal could conceivably correspond to their destructive potential or justify their actual use in armed conflict.” *Ibid.*, 2.

460. *Ibid.*, 3.

461. Closely connected to this issue is the use of “implements” in violence; Arendt asserts that violence is closely related to the use of tools, which extends and also makes even more unpredictable our wielding of them.

gether and act in concert, but it derives its legitimacy from the initial getting-together rather than from any action that then may follow.”⁴⁶² Power is the heart of politics itself, for Arendt, and always created between humans. It also cannot claim to know its own end, in that its action is fundamentally unpredictable. It is opposed to violence, as violence is about implements, and justified merely as a means, never in itself. She argues that violence is marginal to human life because it is silent, without speech, whereas human life in full is about action accompanied by speech.⁴⁶³ Equating violence and power, despite the fact that “though they are distinct phenomena usually appear together”, is a grave error made by the government, would-be revolutionaries, and intellectuals.⁴⁶⁴

Yet, Arendt’s stark differentiation between power and violence is undermined by her own discussion. In her claim that they usually appear together, we see an acknowledgement that there have been good reasons for conflating the two. Furthermore, she openly states that, in the short term, violence may be the only way to enact justice and may be required by self-defense. Indeed, it she leaves us with an understanding of violence that is related more to its world destroying nature than to its connection to bodily harm. Power is what makes politics possible, whereas violence closes possibilities. While

462. *Ibid.*, 120.

463. Arendt, *On Revolution*, 19.

464. Arendt’s project, along with countering Fanon, Sartre and revolutionary Marxism, is also to dispute Mao’s famous statement about the germination of power in gun barrels. Arendt says that what grows from the barrel of a gun is not power, but instead mere obedience and terror. *Ibid.*, 11.

the difference between the two initially seemed to rest on whether one was an end or a means; this too is uncertain at the time of activity, especially as some “violent” activists must have the goal of opening a space for politics. The relationship of violence (as commonly considered, i.e. harm) to the founding of a durable political space, which will be discussed below, further problematizes a traditional understanding of violence, which cannot be what Arendt is developing.

Arendt’s unique definition of violence hinges on the notion of instrumentality that is also at stake in differentiating work from labor. Arendt introduces violence as connected to “implements,” “tools,” “the means-ends category” and “fabrication” in the space of a paragraph, linking it conceptually to work if not by name.⁴⁶⁵ Yet violence is not completely equated with work, because (although it is attempted with an eye to certain political ends), it is unpredictable, and yet also link between work and politics. Work follows a blueprint, and the ends can be pursued and reached, even though they lack an ultimate justification outside of humans themselves. Arendt argues that violence is even less predictable than action, in a nod to Machiavelli and the role of Fortuna.⁴⁶⁶ While Arendt’s invocation of Fortuna might seem abstract for an analyst who sees clear causes for each

465. Arendt, *On Violence*, 4.

466. Lingering in this conception is certainly the Vietnam War, a conflict which displayed the unpredictable nature of combat in a visceral way, as half of a small, “undeveloped” country either defeated or forced to a stalemate the largest and most advanced military in the world.

set of military surprises in the set of material and cultural conditions on the ground, it points to what the same analyst might call the “human element”.⁴⁶⁷

This reason also points to the interconnected nature of politics, work, violence and power. In social contract narratives, the state of nature stands in for the pre-political, and its contours provide the raw materials from which the political is fashioned. In the Arndtian story, the products of work maintain what she calls a world: the set of physical objects and more abstract tools such as language, custom, ritual and culture. Understanding these elements of human life as products of work makes sense, given that she has specified that work is what gives us a common world and includes works of art and other products of thought. When an artisan fabricates a product, such as a cheese or piece of furniture, the production leads to a tangible artifact that corresponds to the plan or recipe the artisan has worked from as a blueprint. This seems initially to separate the artisan sharply from the political actor. Similarly, a military campaign seeks a particular target or goal and pursues that goal with the weapons (tools) available, and success can be measured by whether the hill, city or island is won (or defended, etc.). However, both the cheese and the military victory are potentially part of the establishment of the political space. The cheese may be just a cheese, or it may be the basis for a political movement,

467. William Darryl Henderson, *Cohesion, the Human Element in Combat: Leadership and Societal Influence in the Armies of the Soviet Union, the United States, North Vietnam, and Israel*, First Edition (?) (National Defense University Press, 1985).

as in the case of the growing politicization of food production and provenance around issues of human and animal welfare, cultural preservation and anti-capitalism⁴⁶⁸.

Similarly, it is even easier to see how military action is tightly bound together with the political. Arendt's use of Machiavelli, the greatest western theorist of foundings, is instructive. Arendt herself identifies the unique place of Machiavelli as a thinker of political beginnings, even if she ultimately thinks his project is overly contained by the vision, and partial invention, of the nation-state form. A military campaign is not merely a quest for territory, of course, and in recent history has nearly always sought a political outcome⁴⁶⁹. While the goal of these missions is often, in the short term, to enact a cease fire, its secondary mission, or sometimes primary, is often a transition into political stability. Military action is nearly always aimed at a political goal, and this cannot be understood purely as violence in the Arendtian sense.

468. A cheese is just a cheese, but it may also be an activist unpasteurized cheese produced in defiance of the U.S Department of Agriculture's ban on raw milk, sold in cow-sharing clubs or under the label of pet-food. Or the cheese could be stuffed in cappelletti in the late 19th century, where this pasta became a symbol of grassroots political association in Italy, and bowls were served in underground trattorias alongside socialist tracts. Gillian Riley, *The Oxford Companion to Italian Food* (Oxford University Press US, 2007). It may be bound up in debates about disability and discrimination, as a 2003 case involving discrimination against paralyzed workers which centered around who was qualified to cut and process cheese Crystal Lake Cheese Factory, Petitioner-Appellant-Petitioner, v. Labor and Industry Review Commission and Susan Catlin, (Wisconsin Supreme Court 2003).

469. This holds true to for the various proxy wars of the Cold War era, the hotter conflict in Vietnam, and the attempts at "regime change" in Afghanistan and Iraq. It is also particularly applicable for the various contemporary peacekeeping missions of the United Nations, most notably in Cambodia (1991-1993), (former) Yugoslavia (1992-1999, ongoing in Kosovo), Rwanda (1993-1996), East Timor (1999-2005), Haiti (2004-present) and, most recently, the Congo (1999-present) (UNPK).

One might argue that these uses of cheese are symbolic, and that it is human agency and creativity that transforms cheese as an object, or even a commodity, into the basis for political action. It is my argument that this “transformation” is still a type of work, and itself only a prelude to Arendtian politics, which in the form of pure natality must be rare indeed. The political actor may indeed draw on or respond to symbols in a powerful way, especially as Arendt’s connection between the political and speech is so strong. But these symbols and language itself must be built before political speech is possible. And while military action may aim at a political goal on the surface, there are plenty of critiques in the style of *realpolitik* that might see such appearances as masking a deeper interest in amassing wealth or (non-Arendtian) power. It is thus puzzling that Arendt does not differentiate between violence that is for the sake of politics from violence that is for the sake of something else, including gain. That is, unless we read (as I have above) her separation of violence from power as not mapping onto our commonsense conceptions of violence as force or relating to bodily harm, and instead as merely separating that which builds the political from that which destroys it.

Arendt’s focus on the work of building shows that work is key to the maintenance of political regimes and freedom. It also helps us see that a rejection of the “social” or interest in politics is not equitable with a turning away from an interest in the flourishing of a wide variety of citizens. Arendt gestures to this in her critique of Fanon’s claim that “hunger with dignity is preferable to bread eaten in slavery,” noting that a more true (if less powerful) claim would be that “bread eaten with dignity is preferable to cake eaten in

slavery,” in that we must always choose sheer existence and metabolic life processes if we can.⁴⁷⁰ This claim can lead Arendt to oversimplifications, such as in her rejection of the Black Power Movement and her critique of calls for solidarity with the developing world. Her worry is that identity politics based on group interests, seeking a specific end such as redistribution of goods or renegotiation of loan terms, fails to widen the political space or create a lasting institution that will house political action. This is also echoed in Arendt’s distrust of bureaucratic institutions.⁴⁷¹ However, concerns with inequality and the place of work are not-excludable from her political work, given their role in building political spaces or, in Arendt’s term, their power.

Arendt’s invocation of violence as tied to logics of necessity helps explain both her distinction here and in the more famous *The Human Condition*. If the problems with asserting private interest and using violence as a political tool are that both limit the pos-

470. Arendt, *On Violence*, 20.

471. Arendt worries that bureaucracies are not only part of the conformist bent of mass society, but “rule by nobody” that emerges when the social overcomes the political. She writes, where life is at stake all action is by definition under the sway of necessity, and the proper realm to take care of life’s necessities is the gigantic and still increasing sphere of social and economic life whose administration has overshadowed the political realm ever since the beginning of the modern age.” Arendt, *The Human Condition*, 28. She even described the Nazi State as a “bureaucracy of murder” in Hannah Arendt, *Eichmann in Jerusalem* (Penguin, 1963), 172. In counter to this, Michelle Rodriguez argues that Arendt’s work recognizes both the promise and peril of the administrative state, and provides a guide to “spirit with which public administration should be carried out if one’s primary commitment is to freedom rather than to either limited government or collective will-formation.” This spirit is honored “to the extent that administration is not reduced to identifying and applying formal rules but to engaging different views of the world, “ Michelle Rodriguez, “The Challenges of Keeping a World: Hannah Arendt on Administration,” *Polity* 40, no. 4 (2008): 488–508, 492; 507.

sibilities for world building and a shared political life, then we should be evaluating civic projects on the basis of that criteria, rather than focusing on power understood in terms of domination or force. Finally, a critique of Arendt's attempt to divorce violence from the violence of the state, or of liberalism's exclusions, is very telling. It first should beg the question of whether so called "agonistic" or "radical" democrats, like Chantal Mouffe, can so easily connect Arendt and thinkers like Carl Schmitt. Second, if this distinction is so difficult to maintain, we can question whether Arendt can ground her preference of activities of power over activities of violence. Or, put a different way, whether this sort of preference is in any way associated with pacifisms or the Ghandian *Satyagraha* with which it is sometimes linked. Indeed, Arendt seems to say that violence is usually a poor choice in our shared life, not because of an inherent moral prohibition, but because it can destroy our world just as easily as create it. However, her discussion of revolution makes it clear that violence, as traditionally understood, is very often part of the development of power and action that she lauds.

For Arendt, Power is that which grows between individuals and is sustained "where people would get together and find themselves through promises, covenants, and mutual pledges."⁴⁷² We could think of it as a network, but only in the sense that a network is a group of interconnected hubs based on the voluntary and mutual consent of the parties involved. In a way, power is a type of social contract for Arendt, akin to the for-

472. Arendt, *On Revolution*, 173.

mation of a state in the thought of Locke, where each is bound to each. However, it is a contract that must be constantly, not tacitly, renewed. In Arendt's version, this compact also creates the political space, but it is only created as long as the association between the humans holds. It is also not created for the sake of security, wealth generation or even democratic will formation, but rather for the sake of political association and public happiness itself, which are elevated in Arendt's thought. It is this creative act that resists the social and preserves both the public and private realms. Thus the privileging of violence over power is based in the fundamental hierarchy of human "goods" that underlies Arendtian theory, where everything is for the sake of politics, action, and natality. However, this "political" world is not similar to the traditional use of the term to designate government and related activities, just as the terms violence and power are reworked in Arendt's idiom. Indeed, the political turns out to hold a great deal of activity occurring in what we might call civil society, or even the private household. Most importantly, it is itself dependent on and submerged in the world created by work, and even sometimes by violence.

Work and violence are strangely related terms; they are in some ways opposites, because work is bound up with power and world building, and closely interrelated, in the way that work often contains violence. To oppose the ubiquity of work, it is not sufficient to argue that the public and private need to be pulled apart, or that the logics of necessity and freedom can be separated. Instead, following the thread of Arendt's understanding of violence as privation of the political space and power as a fundamentally communal

property, we should shore up the ability of citizens to enact their own political foundings, moving easily between these related categories of life.

6.5 Maintaining the Political through Revolutionary Institutions

The centrality of foundings leads to Arendt's writing on the topic explicitly, in her comparison of the French and American revolutions, where we find more support for the countering of the depoliticalization of work. Arendt gives us a new narrative for political foundings that is neither the social compact narrative that underlies most modern conceptions of the state, nor a turn to a kind of Schmittian violence. As we will see, her new narrative is not without its problematic exclusions, but it does link explicitly the central importance of power as understood as created by individuals, and the requirement that each constitutional regime has for maintenance. This is carried through her work in general.

On Revolution considers the centrality of constitutional maintenance. In it, Arendt takes an already loaded term and attempts a redefinition that denies much of the commonsense understanding of revolution, just as she has with violence, above, and work, below. Her central claim is that it is the American attempt at revolution, not the French, that is the exemplary model, despite its lack of influence over the world.⁴⁷³ She argues that the American experience is an authentic, if ultimately failed, revolution because it attempted to create a public space for political action through constitutionalization. The

473. Arendt, *On Revolution*, 24.

French revolution, in her view, instead hinged on the assertion of private interest and the failure to codify their experiences.⁴⁷⁴ She also suggests that each conceives of revolution as tied to “the social question” in a way that limits their ability to secure the freedom that regime change could enable.⁴⁷⁵

We might ask whether such a radical revision of a concept is anything more than semantic, in that Arendt’s adoption of the American model is idiosyncratic at best, ignoring very real American experiences of conflict, violent and ideological. . Furthermore, she stops after a consideration of the revolutionary period, avoiding the question that is briefly hinted at of whether the problems experienced after the French Revolution, in dealing with the misery of the masses, were only solved in America due to the institution of slavery. Indeed, for Arendtian arguments about revolution and foundation to convince, we must account for the continued constituting which occurred since that first moment.⁴⁷⁶ Arendt seems to take it for granted that the “pearl” of action and what she calls “the public spirit” was lost in the succeeding generations since the founding; in fact, she critiques

474. Her two theoretical targets are liberalism and Marxism; in particular, she problematizes their understandings of social change and agency. She faults both theories for failing to understand the nature of “the political” and instead seeing political action as a means to other goods, outside politics.

475 Ibid., 52.

476. Bruce Ackerman, *We the People, Volume 1: Foundations* (Belknap Press of Harvard University Press, 1993). He argues that both professionals and citizens are too apt to imagine the founding as a period of profound creativity, and the rest of our constitutional history as decreasingly innovative. He argues that our constitutional regime has actually been altered at least twice since its founding through the transformative activity of citizens during the period of reconstruction and the New Deal. While Ackerman disagrees with Arendt that no creative founding or refounding has occurred since 1789, he agrees that forming institutions that encourage revolution, in the Arendtian sense.

“the failure of the revolution to provide [the revolutionary spirit] with a lasting institution.”⁴⁷⁷ It is clear that the problematic aspect of founding is not only the constitution of a political body centered on “freedom”, but maintenance and preservation. Arendt points to this problem, but this text gives few resources for learning how to maintain political freedom.

Arendt insists that the American founders, contrary to suggestions that they were protecting their own private interests or securing a place for the elite, developed such a liking for public life that its preservation was central to their political activity.⁴⁷⁸ Her discussion of revolution is not ancillary to her other thought, but necessary to retain the key concept of politics on which her entire theoretical apparatus hangs. If revolutions are violent assertions of underlying social forces where individuals come together to create a society which meets their needs, either one which respects individual rights in the liberal view or a classless one in the Marxist, than Arendtian politics will never get off the ground. Instead, she must argue that revolution is properly seen as world making, and that we have at least one (failed) experiment in the “lost pearl of the revolutionary tradition” of the American founding.

477. Arendt, *On Revolution*, 223.

478. She revives the thought of John Adams in support of this claim, as well as drawing on the occasional localism of Thomas Jefferson. The latter’s ward system, as well as commonly quoted suggestion that a Constitution ought to be rewritten periodically, provides Arendt fodder for her chewing over this problem.

Arendt consistently points to the absence of misery and wide scale poverty as key to the relative stability of the American revolution in comparison to the French, but only briefly notes that “the absences of the social question from the American scene was, after all, quite deceptive, and that abject and degrading misery was present everywhere in the form of slavery and Negro labor.”⁴⁷⁹ We should wonder whether foundation of political liberty and public happiness which Arendt lauds is only possible due to the exclusion of slaves, women and the disenfranchised. In the American example, the creation of what Arendt describes as an autonomous public space is made possible through the exploitation of a large segment of the population. There are clear echoes of Aristotle’s discussion in *The Politics* of natural slavery and the necessity of certain types of labor to support a citizenry with the time and ability to participate politically. The question that develops throughout the rest of American history is whether the foundation of a political space, which allows for action, can be possible without the constitutive exclusions of entire classes.⁴⁸⁰ As this dissertation seeks to capture and expand on the insights of Arendt into ac-

479. *Ibid.*, 60.

480 Perhaps even formally inclusive societies, such as contemporary western liberal democracies, function through the exclusion of groups such as prisoners Michel Foucault, *Discipline & Punish* (Knopf Doubleday Publishing Group, 1995); the homeless Jeremy Waldron, “Homelessness and the Issue of Freedom,” *UCLA Law Review* 39 (1992 1991): 295; Kathleen R. Arnold, *Homelessness, Citizenship, and Identity: The Uncanniness of Late Modernity* (SUNY Press, 2004); Leonard C. Feldman, *Citizens Without Shelter: Homelessness, Democracy, and Political Exclusion* (Cornell University Press, 2006); and guest workers or “illegal” immigrant, Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton University Press, 2004); Yasemin Nuhoğlu Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (University of Chicago Press, 1994).

tive citizenship in relation to American citizenship, which has historically been exclusionary, the question of whether her solutions rest on exclusion and domination is key. However, it needs to hang in the air until my discussion of work, wherein I argue that her own theory cannot bear such built-in exclusions, nor the firm categorization of individuals or activities.

For now, it is clear that along with her claim that the American revolutionary treasure has been lost, or is being lost, through the elevation of representative government and the evisceration of local politics such as the New England township, we can also see that political spaces of action and natality are fragile because of the great costs to create them. In our contemporary democratic practice, the relationship of western public spheres to third world and often feminized labor- much of which occurs within the western countries through migrant, undocumented and temporary workers- is particularly problematic, and forms the most problematic aspect of Arendt's contribution to the problem of work in political theory.

6.6 The Return of the Social and the exclusion of Labor from the Political

So where has Arendt's linked discussions of violence, power, the social and revolution landed us? On one hand, her elevation of a non-violent political action above all private interest and her advocacy of a world-making practice of citizen action (not limited to the nation state) is attractive to those thinking about citizenship as distanced from both the nation-states and waged labor. At the same time, her frustrating and utopian insist-

ence that revolution is possible without shedding blood or worry about labor and exclusion should concern us. We cannot easily replace the social contract story of the state with an Arendtian vision of citizen co-creation. But we can think about what an Arendtian theory might look like which acknowledges the exclusions and contradictions of action and the importance of work.

Despite a much noted hostility towards “the social question” which has led to her dismissal in some quarters as a theorist with anything to say to those committed to social justice, is not necessarily hostile to the political action of the poor. She writes: “action, though it may be started in isolation and decided upon by single individuals for very different motives, can be accomplished only by some joint effort in which the motivation of single individuals- for instance, whether or not they are an ‘undesirable lot’ - no longer counts, so that homogeneity of past and origin, the decisive principle of the nation-state is not required.⁴⁸¹ Action is not limited by our subject positions, but by whether our personal motivation, or claims as bare life *qua* bare life, capture the joint effort. One contemporary example where this concept is applied is the popular protests and revolutions of the Arab Spring. It is too early to say whether the changes pursued in these movements will establish the sort of institutions that would qualify them as a revolution in an Arendtian sense. However, it is certainly true that her conceptions of power as that which is between humans, and not what is formal or vested in military might, is on display any time

481. Arendt, *On Revolution*, 166.

in which a seemingly unshakable regime is undermined by the public display of solidarity in the streets. Yet, there are plenty of participants in these demonstrations who are undoubtedly protested from their position in Egyptian society as poor or marginalized, and who seek economic redistribution or some other satiation of physical needs. Yet the protest itself, even before any demands are made or governments fall, creates (with the aid of international media, both formal and via twitter, blogs and other social media) a political space. In this political space, the demands of the body (including those of looters) are denied, and the demands to formally constitute an open forum are repeated. It is entirely possible that policies seated in social justice will be demanded or instituted following any change in government, but this will occur through the mutually sustained political space, rather than by the design of a leader who sees himself as architect or philosopher king.

What Arendt offers in her separation of violence from power, and of revolutions from social movements, is a vision of the creation of institutions and actual spatial forms that are wholly formed by people—in-community. This is distinct from a concept of civil society wherein existing groups mediate the state and market, and also from ideas of cosmopolitanism that start from either individual moral comportments or world government. Instead, it focuses on the capabilities of humans to act in their newness. What I have tried to show, however, is that Arendt's compelling vision of citizenship is haunted by the very violence she wishes to banish from the public realm, even if this violence is reformed as marginalization and oppression. Arendt cannot, after asserting a "right to

have rights” be sanguine about the status of the worldless, and who is more worldless than illegal immigrants or citizens living behind levees, waiting to for them to break?

However damning her reluctance to equate or relate exclusion and domination with violence outright, Arendt is well aware that foundings are often violent. This is because, as she herself acknowledges, any use of material is a type of violence.⁴⁸² The mistake is seeing humans as a material for fabrication, not because that violates Kantian morality, but because humans are unpredictable material. This is aligned with her interest in recapturing the use of the word constitution in relation to its verb form “to constitute” and its broader history of suggesting a regime as a whole instead of a paper document. The act of constitution is not to fabricate a state out of human material, seeing each person as interchangeable or as one number in a set of demographic statistics, but to recognize already constituted social bodies.⁴⁸³ This does not mean that one must accept what exists as given and normatively good. It does mean that the violence of foundings must be limited, in the sense that those that destroy the informal institutions of a society or fail to see the spring that characterizes its nature, will fail to establish anything “new.”

482. She faults Robespierre for imagining himself a “fabricator” of a social state, and this permitted to enact the violence which occurs in fabrication because “a given material... must be violated in order to yield itself to the formative processes out of which a thing, a fabricated object, will arise. Arendt, *On Revolution*, 200.

483. “...Covenanting and constitution making become matters of theoretical interest only insofar as the people who are doing covenanting and constitution making are doing so with the intention of constituting a space within which public happiness, and not private security, can be enjoyed” Michael G. Gottsegen, *The Political Thought of Hannah Arendt* (SUNY Press, 1994), 123.

Indeed, Arendt advocates for the promotion of the institutions that cultivate freedom and habits of democratic life, such as local political life in the American context and the doomed political societies that preceded the Paris commune in France. In this, she updates and expands on the teaching of Machiavelli, whom she acknowledges as the first to theorize foundings. Part of her addition, however, is the claim that “foundation, augmentation, and conservation are intimately interrelated” and that the last two are the tasks of the generations who follow the revolutionaries.⁴⁸⁴ The tendency to equate Arendtian natality with sharp breaks in the political and social fabric is somewhat misguided, or perhaps speaks to the desire to move her work solidly into the category of leftist revolutionary. Instead, we should work on understanding how constitutional maintenance and conservation of political spaces occurs.

6.7 Understanding Privacy as a precondition for Constitutive Citizenship

But to speak more fully about Arendtian “conservation” and the work that this requires, a closer look at what she means by work and how it relates to this discussion is also needed. If power is about the building of the political, and it entails sufficient work as well as pure action, it provides the bridging term that also combats the dominance of the social. The idea that “separation” is key for preserving a space for the political comes out most clearly in Arendt’s oft-overlooked discussion of privacy.

484. Arendt, *On Revolutions*, 194.

Privacy is in fact a better way to understand Arendt's distinctions than private in the sense of owned by one person or off limits to state authority. She argues that the Greek understanding of privacy as linked to privation has been replaced by the contemporary sense of privacy as intimate shelter and this shift shows us even more clearly the dominance of the social.⁴⁸⁵ She wants to resurrect the idea that privacy is privation; that is, a lack of publicness from which we are drawn to emerge into political life. We might label her an opponent of privacy, but in fact she sees a renovated type of privacy as key to establishing the political public world. Indeed, she argues that the "hiddenness" of privacy as experienced in relation to the social masks the importance of privacy, and a certain understanding of property, as the network of relations and resources from which people can act politically.⁴⁸⁶ Indeed, Arendt understands "private property" not as an individualized right to possession derived from a labor theory of value, but rather indicating the resources each person needs (the hearth) to emerge into the public space. Along with the hearth, she identifies it with "the fences around the houses and gardens of citizens," prefiguring her later discussion of the importance of a shared table for political action and power.⁴⁸⁷ These in-between spaces and paths connect people in networks wherein power

485. Arendt, *Human Condition*, 58.

486. "The non-privative traits of privacy should appear most clearly when men are threatened with deprivation of it," says Arendt, who takes this importance to mean that the boundaries and pathways between the private and public need to be maintained. *Ibid.*, 71.

487. Professor Hannah Arendt, Hannah Arendt Peter R. Baehr, and P. R. (Peter R.) Baehr, *The Portable Hannah Arendt* (Penguin, 2003), 213.

also be developed and maintained. Privacy, properly understood, is the tangle of boundaries and connections that makes human life possible.

Private property is actually not private in an individualistic sense at all, given the intersubjective nature of Arendtian political space, and the key role of language and history for the continued interplay of human narrative. Indeed, it has more in common with the capabilities necessary for constitutive citizenship. Arendt's understanding of private property is in no way the same as wealth or private property in the sense used in liberal democracies, and thus there is no reason to not read certain other goods (such as housing, healthcare, education) as built into the right to a common political space, as they are acknowledged as necessities before one can either work or act. Arendt is clearly a critic of the "social housekeeping" that the redistributive welfare state takes on, but her entire scheme poses the problem of reconciling the paradox that as metabolizing bodies we must be sustained, even as this sustenance, in itself, cannot be the end of a good life. Each person needs a hearth from which to come into the political world, and the tools to maintain the common world in which the political is housed; these processes must be engaged in in common. The enabling of schemes that develop these common spaces, and of the resources individuals need does not have to occur in the form of a welfare state. Indeed, Arendt suggests that it explicitly cannot.

The trick is not banishing government from the private sphere, or supporting political action at the cost of all else, but nurturing a world in which movement between the spheres is possible, and even easy. This is why the Paris Commune is of such interest to Arendt, as is the early labor movement. She identifies the latter as the most capable in terms of claiming and building political competency without succumbing to the fashion of the social. And citizenship, perhaps, is located in the world and work, not the “political” in the Arendtian sense, although it may still involve some of the structures that we call, informally, politics. Workers build the common world in which both privacy and action are possible; it is this “web of relationships” which allows for action to be “about some worldly objective reality in addition to being a disclosure of the speaking and acting agent.”⁴⁸⁸ She even says that the world is “overgrown” with the intangible non-products of action and speech- these constitute the web.⁴⁸⁹ And while in some places this web seems to be purely a product of action itself, the fact that it has a worldly character, and requires intersubjective meaning giving of spectators as well as the reification involved in the recording of stories and histories, connects it also to the worker.⁴⁹⁰

488. Arendt, *The Human Condition*, 182.

489. *Ibid.*, 183.

490. *Ibid.*, 184.

6.8 Co-Constitutive Citizenship as “Work” in *The Human Condition*

I have claimed that Arendtian citizenship is properly understood as part of work, rather than politics. This claim is central for meeting the challenge of the depoliticization of work in contemporary life. Unless the conditions under which we work, and under which our consumption connects to the work of others globally, are explicitly at issue, the ability of average citizens to build the sort of political movements democratic theorists long for will be severely limited. Arendt, in addition to the discussion of power, violence and privacy I’ve explored above, provides a theoretical linkage of work and politics even in her most action-glorifying work: *The Human Condition*.

In this work, Arendt employs Montesquieu’s method, categorizing human life (*vita activa*) in relation to its “spring” or energizing principle. She distinguishes between labor, work and action, and her text as a whole explores an historical discussion of how the relationship between these spaces of being has changed as humans have remade the conditions under which they live. Labor is the reparative and animal functions that keep us alive: consumption, metabolic activity and the push of necessity. It “corresponds to the biological process of the human body.”⁴⁹¹ Work “corresponds to the unnaturalness of human existence” and is what produces a world outside ourselves in which we can live, adding stability to our existence.⁴⁹² Action, finally, is what gives meaning to our lives and

491. Ibid., 7.

492. Ibid.

occurs in a political space of natality, guaranteed by the uncertainty represented by birth and the uniqueness of each human. It “corresponds to the human condition of plurality, to the fact that men and not man live on the earth and inhabit the world.”⁴⁹³ She develops nested claims; one is that the *vita contemplativa*, the ways of the philosophers or, worst, sophists and technocrats, have come to dominate the *vita activa* itself; the other is that labor has been elevated over work and action within this last category. In one sense, Arendt is recasting the problem that Aristotle introduces of whether we can have citizenship, freedom and politics without slavery. Political action seems to be both dependent on our continued existence as animal bodies whose metabolic needs are met, yet also, in Arendt’s terms, needs to be emancipated from necessity and its limits. She argues that the Greek polis was a temporary solution to this problem, including the implied threat of mortality, even as it relied on constitutive exclusions (and the labor) of women and slaves in the *oikos*. The public realm is a “space of appearance” in which individuals disclose themselves and are seen as individuals.⁴⁹⁴ No doubt she is well aware that it is practically and theoretically insufficient, and this her claim, “wherever you are, there will be a polis”

493. Ibid.

494. See ROY T. TSAO, “Arendt Against Athens,” *Political Theory* 30, no. 1 (February 1, 2002): 97–123, doi:10.1177/0090591702030001005, for an argument that it is a mistake to take this *polis* as Arendt’s prescription for a contemporary world, as her text also contains sustain critiques of the Greeks and appreciation for the Roman model.

must be interpreted somewhat loosely as an evocation of the centrality of power as collective projects in her world.⁴⁹⁵

Arendt criticizes two related, but often confused, strands of thinking. First, she is concerned that philosophers, such as Plato, Aristotle and Hobbes, attempted to substitute *poesis*, making, for the political.⁴⁹⁶ That is to say that they deny the frailty and contingency of human life, and instead see lawmaking as an exercise in technocratic certainty. This is part of her larger critique of the *vita contemplativa* and the harmful abstraction of intellectuals. However, this concern about “politics as making” does not implicate work fully. That is to say that the problem is that *ideas* of politics as making have been elevated, not that work itself is privileged in the contemporary world. Instead, it is labor that Arendt argues has taken precedence over *both* politics and work.

She diagnoses the problem as historic, emerging from the initial promotion, and then the corruption of the realm of work and of the *Homo Faber*, the human as maker, such that mere labor is substituted and the political world is lost. While much attention is lavished on politics and action, undeniably the privileged leg of Arendt’s triad, work is *also* abused by modernity and necessary for the substance and maintenance of the political world. The common view of Arendt is that she is a theorist who valorizes the Greek polis is not supported by the lack of a stirring call to reverse the reversals that the text has

495. Arendt, *Human Condition*, 198.

496. *Ibid.*, 195.

illuminated- particularly the layered reversals of thought (*vita contemplativa*) and action (*vita activa*), and, within the later category, the elevation of labor above work and action. Arendt sharply rebukes the philosophical tradition, in the guise of Nietzsche, Kierkegaard and Marx for attempting to respond to changing material conditions merely through the reversal- or turning on its head- of traditional categories, and therefore carrying the very experience they sought to escape into the realms they sought to protect.⁴⁹⁷ Surely we cannot simply take Arendt's own diagnoses of modern humans' relationship to their own capacities and history and flip them- elevating action as a normative goal and rejecting life and necessity. It is open whether "changes in the structural elements involved" might be possible for us, but certainly such a task could not be taken up on Arendtian terms as if the polis is a sort of blueprint to be followed, or if the reversal of our values is sufficient to found a political space wherein which action is possible.

Instead, we can think about how the political space is founded by looking not only at action, but also at the much-maligned figure of *homo faber*. This move is welcomed by the place of the scientist, because Arendt claims that in the contemporary world only scientists are "acting", but that this is an action that is not action, because it occurs somehow outside the "web of human relationships" and therefore "lacks the revelatory character of

497. She is concerned that the "reversibility of all these systems, that they can be turned "upside down" or "downside up" at any moment in history without requiring for such reversals either historical events or changes in the structural elements involved." Ibid., 292.

action as well as the ability to produce stories and become historical.”⁴⁹⁸ There is apparently a type of problematic action that is lacking, and points us to the need for work. The need for a common world connects the political to the world of the worker, and indeed questions the possibility of going without the activity of either.

Work, in her original exploration of labor, work and action in ancient Athens, is set against the metabolizing labor of the *oikos*, the household, the performance of which by slaves and women “solves” the problem that action (and work) presents. Action, having no product, can similarly not provide for the biological needs of human life, and its performance requires the subordination of Aristotelian “natural slaves” in the household. However, work amplifies and supports the productive capacities of household labor *and* provides the “web” in which action occurs. She thus attempts to discharge her Marxian⁴⁹⁹ debts through the addition of a third term to his understanding of labor and politics. She writes, “[t]he work of our hands, as distinguished from the labor of our bodies... fabricates the sheer unending variety of things whose sum total constitutes the human arti-

498. *Ibid.*, 324.

499. Arendt’s interest in differentiating work from labor is bound up in the complex relationship between her thinking and Marx. Arendt poses as a serious critique of Marx, in particular as Arendt saw his analysis of history as susceptible to the totalization, as discussed in Robert Fine, *Political Investigations: Hegel, Marx and Arendt* (Taylor & Francis, 2012). Arendt blames Marx for basing his understanding of history in “the reproduction of individual life [is] absorbed into the life process of mankind, can the collective life process of a ‘socialized mankind’ follow its own ‘necessity.’” Arendt, *Human Condition*, 116. In other words, Marx has substituted inevitability and necessity for freedom, and elevating labor and life processes, above other possibilities for human life. It is thus on two main counts that Marx is found guilty: first, by placing the species being above the individual being, and second, by postulating history as a force driven by necessity.

fice.⁵⁰⁰ That is to say, action, which properly political and the highest, requires work, which itself does not enslave the worker as labor does the slave or woman. This same problem will reoccur in contemporary society, where the dominance of commodity driven labor precludes both work and action.

The key words in defining work against both labor and action are: hands, fabrication, variety and artifice. Hands are key because Arendt is insistent that work, unlike labor, is a human capability that is not shared with other creatures. We can understand this stress on hands through her argument (denying a gulf between at least the craftsmen and the intellectual), that the work of the mind is itself only made into a durable thing outside ourselves through our hands. Thus it does not mean anything to have thought about this thesis; I must use my fingers to produce an object that exists outside myself. Hands allow us to take raw materials, whether they are thoughts or wood, and fashion them into something more. Hands hold tools, the hallmark of *homo faber*, and the human as maker.

Fabrication, as indicated by the more common translation (along with production) of the term *Herstellen* used by Arendt in her German version of her text, signals the fundamental activity of life in this mode. While fabrication and production carry a certain scent of a mechanized factory floor, Arendt is attempting to link them instead to the world of solitary artisans and craftsman, and to the idea that work is about making something- producing a work. Humans, in their capacity as *homo faber*, are creative beings

500. Ibid., 136.

who produce objects from blueprints, mental or otherwise. This creation is signaled, she argues, by the ability of these objects to exist, for a time at least, without constant human renewal. She calls this type of existence reification⁵⁰¹. Thus she gives the somewhat puzzling example of the tilled soil, which would seem at first to be an object of work. Instead, she claims that it is merely a slow process of labor, and that, because it lacks reification, “it needs to be reproduced again and again in order to remain within the human world at all.”⁵⁰² One might wonder if many objects can pass this test, but what is key is the attention to the continual maintenance required for work. This is tellingly akin to the processes of “augmentation and conservation” that Arendt connected to founding in her understanding of political revolution. What is key is that work is about fabrication of a durable object that is of use. In some ways, the distinction seems to be about whether an object is designed to be consumed, as “...destruction, though unavoidable, is incidental to use, but inherent in consumption.”⁵⁰³

What the worker fabricates possesses variety, unlike labor driven by biological necessity. While Arendt falls far short of suggesting that work contains the unpredictable range of natality that she reserves for action, work also has aspects of the new in its process. While labor is a continuous, rhythmic process while has no end and no beginning, merely the constant flux of the human species, work’s end “comes when an entirely new

501. “...in which the produced thing is its existence is secured once and for all.” Ibid, 139.

502. Ibid.

503. Ibid., 138

thing with enough durability to remain in the world as an independent entity has been added to the human artifice.”⁵⁰⁴ Work is not an end in itself, but seeks another end, which contains both its promise and problematic nature in Arendt’s understanding.

Finally, work is about “the human artifice.” What is this strange phrase? In some places, Arendt uses “world” interchangeably with artifice, for example she notes that “*homo faber*, the toolmaker, invented tools and implements in order to erect a world, not,- at least, not primarily- to help the human life process.”⁵⁰⁵ Building a world, or adding to the human artifice, is the key to the power of work, even if Arendt herself is wary of fully expressing this power. It is no accident that Arendt chooses the unlikely term “artifice” to exchange with “world.” As indicated in the overall premise of *The Human Condition*, with its rejection of any conception of human nature save that of a being capable of natality and adaptive to the structures humans themselves create, the world is not natural for Arendt. The world is human made and malleable. When we create things, whether they are ideas or machines, it changes the conditions in which we live and, chillingly, we adapt nearly instantaneously.⁵⁰⁶ Thus work, as it creates the conditions for humanity’s condition, is central to future possibilities of labor, work itself, and even politics.

504. Ibid.,143.

505. Ibid., 151.

506. Arendt claims:[i]f the human condition consists in man’s being a conditioned being for whom everything, given or man-made, immediately becomes a condition of his further existence, then man “adjusted” himself to an environment of machines the moment he designed them. Ibid.,147.

Work is set off from labor because of its divorce from biological processes that are cyclical and serve to maintain human beings as a living organism.⁵⁰⁷ Labor is characterized by the nature of the task itself, whether the task is done for payment, as in the case of a factory worker or farm hand, or as part of household, as in the work of a Greek slave or housewife. In fact, it has more in common with the distinctions made by Beauvoir between activities of immanence and transcendence than most economic differentiations.⁵⁰⁸ Yet the category of work, and indeed all Arendtian categories, are not exhausted by the psychological moods or attitudes, and should not be seen as representative of such.⁵⁰⁹ Nor is it possible to merely conceive of one's labor in a new light to make it into work or action, although there is more slippage between the categories than one might think. For example, a great deal of the politicization of consumption prominent in green movements in western countries, as well as anti-American movements in non-western contexts, revolves around linking consumption, a process of labor, with action or work, via artisanship and speech.

507. There is a clear link in labor to Marxism, at least in terms of understanding certain types of labor as problematic. The distinction between alienated and unalienated labor from the 1844 manuscripts is reformulated here, as one's relationship to the means of production is of no consequence in the Arendtian schema.

508. Simone de Beauvoir, *The Second Sex*, trans. H. M. Parshley (Vintage, 1989), esp Ch1.

509. In other words, it is not because cleaning the bathroom feels cyclical and repetitive that it is labor, but because *it is labor* that, under some conditions, I experience it as dull.

Arendt is most disturbed by a trend, in Marxism but not only there, to glorify labor and suggest that it can provide meaning for human lives. She writes: [o]ne can only hope that they themselves [factory laborers] will not accept the social substitutes for contentment and self-respect offered them by labor theorists, who by now really believe that the interest in work and the satisfaction of craftsmanship can be replaced by “human relations” and by the respect workers “earn” from their fellow workers.”⁵¹⁰ This is not denigration of the working class; in fact, Arendt is defending the dignity of human creation while questioning the ability of ersatz community centered on mechanized production to substitute for the creative acts of work and politics. Arendt’s argument that we seek meaningful work, rather than mindless labor, is respectful of the capacities of individuals. The problematic aspects of Arendt’s work are in her seeming rejection of all work that is done with one’s hands; however, labor is characterized by its lack of a larger end, not by its physical nature. Indeed, her distinctions do not map onto manual vs. intellectual labor, or onto Aristotle’s separation of the vulgar from citizens.

6.9 The Remaining Problem of the Family or Reproductive Labor

The fourth challenge of contemporary working conditions, that of reproductive labor or, in a more prosaic term, work/life balance, is both more central and more problematic for Arendt. This is a reprisal of the key question of this dissertation: how can political work be valued, if it depends on labor, without also denigrating this labor? On one

510. *Ibid.*, 149.

hand Arendt's entire schema is developed around the problem of freedom and necessity, and well aware that the ancient solution of slavery is impossible for a democratic world. Yet nowhere does she directly confront the problem of the reproductive labor that makes possible the entire system of labor that she indicates in part of the blob of the social. In fact, she is hostile to identity politics in any guise. However, we can use Arendtian ideas to develop a feminist argument about work and politics that avoids the traps of sectarian, interest-based identity politics, and indeed argue for basic provision of need that doesn't devolve to the bureaucratic "housekeeping" of welfare that Arendt deplored.

The feminist critique of Arendt's work is damning. From the point of view of care feminists, the tendency to reject or undervalue the activities, persons and values of the home is a central aspect of patriarchal thinking.⁵¹¹ Obviously, any generalization of these thinkers is somewhat reductive, but for the purposes of critiquing Arendt they speak clearly (perhaps in a different voice).⁵¹² Which each thinker does not centralize the figure of the mother in the same way, they connect the home to maternal values of fostering,

511. For general background in care feminism, see: Professor Jean Bethke Elshtain, *Real Politics: At the Center of Everyday Life* (JHU Press, 2000); Virginia Held, *The Ethics of Care: Personal, Political, Global* (Oxford University Press, USA, 2007); Eva Feder Kittay, *Love's Labor: Essays on Equality, Dependency and Care* (Taylor & Francis Group, 1999); Eva Feder Kittay, Ellen K. Feder and Ellen K. Feder, *The Subject of Care: Feminist Perspectives on Dependency* (Rowman & Littlefield, 2002) and Julia Hanigsberg, *Mother Troubles: Rethinking Contemporary Maternal Dilemmas* (Beacon Press, 1999).

512. One of the key early texts is: Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development*, First Edition (Harvard University Press, 1993). Gilligan argues, controversially, from studies of children that girls and women cultivate different moral sensibilities than men, opposing care to justice.

training, and concrete reasoning that considers the emotions of those involved, and the centrality of dependency and vulnerability to human experience. Some are careful to distance themselves from the essentialism that dogs this way of thinking gendered ethics, arguing for seeing these ways of approaching the world as connected to home, privacy, the experience of caretaking and dependency rather than gender itself. Even some friendly feminist readers of Arendt are skeptical of her masculinist tendencies and devaluation of care.⁵¹³ Care feminism tends to reject the metaphors of contract and contest prevalent in many liberal understandings of the public world of work and politics, asking what changes would occur if more humans approached each other and society with maternal care. From their perspective, Arendt elevates a masculine conception of the political, centered as it is on accomplishment, valor and a Greek virtue itself steeped in traditional bravado⁵¹⁴.

However, Arendt's arguments do not have to result in the abandonment of the laborer, the slave, the woman in the private space of the household, doomed to follow necessity and the body. It does not *have to*, but at times Arendt herself allows this to occur. On one hand, action seems to be partitioned off from work in that it produces no product

513. Bonnie Honig, *Feminist Interp. Hannah - Ppr.* (Penn State Press, 1995). Mary G. Dietz, *Turning Operations: Feminism, Arendt, Politics* (Taylor & Francis Group, 2002).

514. In a representative comment on *The Human Condition*: "To read such a book, by a woman of large spirit and great erudition, can be painful because it embodies the tragedy of a female mind nursed on male ideologies" Adrienne Rich, "Conditions for Work; the Common World of Women" in Adrienne Rich, *On Lies, Secrets, and Silence: Selected Prose 1966-1978* (W W Norton & Company Incorporated, 1995, 211-213).

and operates without an instrumental logic. Yet, action is not only deed oriented, but accompanied always by speech, often the speech of the spectator, who sees the doer for what he or she is, even when this being is a mystery to the actor his or herself. However, speech, like culture, history, or architecture, forms the common world within which action is possible, and must in a sense be a product of *homo faber*.⁵¹⁵ There is thus no good reason for placing much of the activities of the household, particularly related to the upbringing of children, in the sphere of “labor.” The reproductive labor which occurs as part of mothering shows us that, when we take language and culture seriously as products of *homo faber*, we can also see how problematic the distinction between labor and work has become, in that understanding any process as purely metabolic and therefore as labor seems facile. However, she notes that all of this achievement is meaningless without the stability of storytelling and the world-building nature of language, social practices and community. Arendt does not address the gendered nature of these sets of values (to her detriment), nor does she suggest at any time that any space or activity can be made off limits because of ascriptive characteristics. Indeed, a close reading of her early study of Rahel Varnagan suggests a deep consideration of the problem of those who are made into outsiders due to contingent, and yet immutable, characteristics like gender, race and class.⁵¹⁶

515. The understanding of language as a transparent bearer of human culture is a weakness in Arendt’s thought, as it is unclear whether she takes seriously her own arguments that concepts/words are “exploded” by the death of the tradition and totalitarianism as an event.

For example, the work of motherhood is labor for Arendt, because as child rearing is directly tied to the survival of the species and focused on the messiest aspects of the human as organism. Yet, as we well know, child rearing also entails the day-to-day development and nourishment of a common culture and language, and builds the capacity for action in the world, and could just as easily be reconfigured as a more political type of work, as in the example of temperance home protectionists. In a less intimate example, even the production of a commodity in a factory cannot be easily disconnected from the maintenance and structure of the common world, particularly in the sense that systems of production- say the ring of free trade zones supporting Maquiladoras and the diasporas of domestic workers spread between individual homes- are themselves conditions of human existence, and can preclude or enable the creation of the political space in a particular way. They are, in short, institutions that help build the common world, at least in part.

We can also explore the problem of work and identity through Arendt's own highly problematic discussion of race in the context of desegregation. Another way that Arendt delineates violence from power, or labor and work from politics, is in terms of interest, particularly the interests of students and African Americans. "Interest" is a pejorative in the Arendtian vocabulary because she equates it with the biological needs of the body and humans as merely human and fundamentally interchangeable. The cyclical and

biological aspects of humanity are fundamentally non-political for Arendt, and it is their introduction into the public space that leads to the decline of public life and freedom. Arendt takes up the question of interest in relation to the student movements and flatly claims that African American students are pushing their material interests at the cost of the power of the movement.⁵¹⁷ I have no interest in entering into the fray of whether she is “racist” or sharply misunderstand the nature of early integration in the universities. What is interesting is how her hostility to the claims of African Americans mirrors her hostility to the claims of the social, or of Marxism, in *The Human Condition* and elsewhere- and how they are opposed to her lauding of the formation of People’s Park near the University of California’s Berkeley campus, or to the early successes of the Labor Movement. While it seems likely that some sort of racial bias, or refusal to recognize the world- building elements of the black student movement, clouded Arendt’s judgment here, her preference for one type of activity over the other- in her own presentation- makes sense.⁵¹⁸

517. She comments that “serious violence entered the scene only with the appearance of the Black Power movement on the campuses. Negro students, the majority of them admitted without academic qualification, regarded and organized themselves as an interest group, the representatives of the black community. Their interest was to lower academic standards” Arendt, *On Violence*, 96. These few statements are some of the more controversial in Arendt’s oeuvre, along with her discussion of school desegregation efforts which drew such powerful critique from Ralph Ellison and other black leaders. Hannah Arendt, “Reflections on Little Rock,” *Dissent* 6, no. 1 (1959): 45–56.

518. To support this claim, her appendix includes a reference to “James Foreman’s “Manifesto to the White Christian Churches and the Jewish Synagogues in the United State and all other racist institutions”, which is a 1969 manifesto calling for monetary reparations from the above institutions to the black people. She also invokes a speech by Bayard Rustin, himself at the heart of the civil rights movement, wherein he argues that black students need to seek “remedial training” in order to perform at the level of their advan-

Arendt is blind to, or even willfully ignores, many elements of the black student movement. But it also is clear that her objection to their claims lies in the easy connection of violence, biological necessity and race itself. She is also indicting identity politics for substantially closing down the shared public space. Later in the same essay, Arendt suggest that “racism is an ideology,” without fully filling in this story or connecting this comment to her earlier critique of black student movements.⁵¹⁹ Similarly, she argues here that racism, whether in the Black Panther party or in the white majority, allows for the assertion of necessity and the use of violence, as if violence were the only option. The call for money and for advancement without qualification (affirmative action) strikes Arendt as steeped in a logic of self-interest and private gain, and grounded in violence understood as the shutting of the public. The ease with which these demands are met, she explains, has to do with the expediency of violence, and thus is in sharp contradiction to the deliberation and contestation that she prefers in her activism. This illuminates Arendt’s later use of the language of *Brown vs. Board of Education* to oppose power and violence.⁵²⁰ This tips Arendt’s hand; she is not speaking against racial integration *per se*,

taged white peers, instead of asking for alternative forms of learning and cultural education, such as Swahili language. In essence, she reads the demands of the black students as purely redistributive and an attempt to assert the primacy of economic logic in the space of the university and the political.

519. Ibid., 111

520. She notes that “to act with deliberate speed goes against the grain of rage and violence.” Arendt, *On Violence*, 137.

but contesting the methods of the black student movement and their willingness to employ violence when the results are uncertain.

Of course, she follows her reference to *Brown* with the acknowledgement that violence may in fact be tied to justice, and this admission perhaps leads us back to her strange insistence that power is preferable to violence.⁵²¹ Why is the black student movement, which seeks to gain access to the public realm for black individuals, derided? Indeed, there seems little support for her claim that black students turned the general tide of activism to violence, or that their claims were more redistributive than recognition based. Furthermore, Arendt seems to drift back into common definition of violence (as involving force, domination or harm) in this evaluation.

It is just as possible to read either the school integration fights or the drive for affirmative action as an act asking for admittance to the space of appearances and the tools to excel therein. It is difficult to see why her counterexample to the black students, the creation of People's Park in Berkeley, is really that different from the black student movement. Both are made and maintained by citizens. Keeping in mind that Arendt may have very much missed these traits in the black student movement, the emphasis on the creation of a shared space that can and will be maintained by human caring is notable.

521. Arendt writes "under certain circumstances violence-acting without argument or speech and without counting the consequences- is the only way to set the scales of justice right again" Arendt, *On Violence*, 127. What a puzzling statement to make in a piece largely opposing the use of violent means in a fight for social justice!

Thus Arendt is blind or resistant to much of the potential or actual politics around reproductive labor or the status of women. This is so despite her clear interest in the labor movement, which she lauds for coming into *political* salience, existing for at least a time to do more than promote the individual interests of its members. It is no less true that if formal labor issues can become political in that way, so too should the informal labor arrangements of the household particularly if it is on this labor that the work of citizenship depends. If it is true that reproductive labor and the conflict between work and family is a central issue for democratic citizenship, this is an issue that must be attacked in a way Arendt does not, if perhaps still with Arendtian tools. Arendt's treatments of gender, race and class are unsatisfactory, at least for practitioners who seek to move beyond identity politics and form a coalition of citizens committed to a more just workplace, including in the home. Her understanding of work as an activity of citizenship goes far in meeting the challenges of superfluousness/precarity, ubiquity/privacy, depoliticalization, but need to be extended to meet the challenges of reproductive labor and its conflict with paid work and the demands of citizenship.

6.10 Work as the Location of Citizenship for Hannah Arendt

So far, I have claimed that work is both more important and less clearly demarcated from labor and action that typically understood and this concept helps us. Support for this position comes from several readers of Arendt, if not her dominant reception as a theorist of civic virtue. However, Patchen Markell has been recently developing a line in inquiry into Arendt and works of art, suggesting that the last part of the chapter on Work

in *The Human Condition* forms a conceptual bridge between the others, and connects this through an exploration of the “architecture” of Arendt’s work.⁵²² Other useful commentators for my project include Jeremy Waldron, while not interested in work *per se*, develops a constitutionalist reading of Arendt, focusing on the parts of her thought that celebrate humans as political animals.⁵²³ Linda Zerilli also theorizes the centrality of “the question of the world,” rather than the identity politics (for Arendt the social question) of the question of “what”, which in feminism rebounds as the question of what women are.⁵²⁴ Bonnie Honig’s long engagement with Arendt, while ultimately resulting in a sort of agonism that I read as hostile to the sort of world-building constitutive citizenship I am advocating, is also useful⁵²⁵. Finally, Roy T. Tsao’s rather underappreciated article takes

522. P. Markell, “Arendt’s Work: On the Architecture of < I> The Human Condition</i>,” *College Literature* 38, no. 1 (2011): 15–44. Markell’s interest is in particular in reading the Arendtian triad as instead two pairs- labor and work, and work and action, and then in seeing how work itself, controversially, may be more important in Arendt’s writing than previously thought. His thinking is closer than any other commentator to my interpretation of Arendt, however, he focuses more on recuperating the place of artwork in the Arendtian corpus, and reconsidering the aesthetics that Arendt turns to in her later work, and in her criticisms of New York culture, as well as the spatial implications of Arendt’s work. I am interested in what the centrality of work and world building mean for political practice, particularly for those who seem to be initially silenced by the distinctions Arendt employs.

523. Jeremy Waldon in Villa, *The Cambridge Companion to Hannah Arendt*, 201-219.

524. Zerilli, *Feminism and the Abyss of Freedom*. Zerilli’s target is feminism’s conception of freedom which fail to recognize the need for “disturbance” of existing orders of identity and political hierarchy, yet in terms of a reading of Arendt she advances our ability to think in an Arendtian manner even against Arendt’s own refusal to see gender as anything but a facet of the social.

525. Bonnie Honig, *Emergency Politics: Paradox, Law, Democracy* (Princeton University Press, 2009).

on the issue of Arendt as polis promoter directly, arguing that there is a fuller appreciation for Roman Citizenship that usually appreciated.⁵²⁶

These thinkers support a reading of Arendt that is attuned to work and gender, but they do not consider whether work may actually be the proper location and activity of citizenship, which has been reflexively associated with action/the political because the common use of these terms would include citizenship by definition. But citizenship is not an exceptional great deed, but the consistent maintenance and care for institutions and practices that all for the possibility of the political. Work, at least some work, *is* citizenship. Note that the strongest invocation of a concept like citizenship in her work is the famous “right to have rights”, which seems in some ways to fall back on an understanding of citizenship as formal membership in a political entity- as a synonym for passport holding. Certainly, within the failing comity of European nation states, the right to “be in a political community” is rightly equated to a passport, and the statelessness of the refugee highlights this. But the reason that the refugees needed states is not that juridical citizenship is a good in itself, but that it is constructed as the opposite of a type of bare life (*bios*) which is, by definition, superfluous. The right to have rights is the right to membership that shores one up from superfluousness and cannot, particular in a world with many refugees who hold passports but cannot return due to violence, ecological disaster,

526. His ultimate, and rather thrilling claim is that “Arendt’s theory of the public realm is considerably more expansive than her remarks on the polis would seem to indicate “ROY T. TSAO, “Arendt Against Athens,” *Political Theory* 30, no. 1 (February 1, 2002): 97 –123, doi:10.1177/0090591702030001005, 98.

or systematic impoverishment, be seen as juridical citizenship. But nor can it be fully equated with action. Instead, it has to do with a “place in the world”, which ties directly into Arendt’s reading of private property as a type of hearth in chapter 2 of *The Human Condition*, and with work.

This hearth, which provides a hiddenness and depth to human life, is not a hidden place or void, but a positive place, analogous to a stage, where human activity can take place. It is thus *seen* from outside and forms a part of the durable “human artifice” so valuable to Arendt. As such it is also a place where the difficult distinction between work and labor is most at issue, as is the feminist critique of Arendt’s acceptance of public/private distinctions that blithely leave women and the oppressed in the private sphere. At times, Arendt lapses into a public/private distinction that seems adopted straight from liberal theory, with the private fundamentally pre-political and ruled by private emotions and an equality of sameness. However, the private in Arendt is the space from which individuals move into public action, and into work, and forms the basis for their politicization. While she is constantly critical of the encroachment of private interests into the public space, often characterized as administration or as identity politics, this does not negate her other comments that recognize the complex relationship between necessity and freedom (or private and public). It is movement between the spheres that political citizenship requires, in that it is this movement that differentiates individuals and opens up the possibility of history in the fullest sense (as an unpredictable event, rather than an inevitable process).

In this reading, the actor on a stage is not more important- or more accurately, not a different person, than the builder of the stage. The individual of action is fundamentally someone who moves between public and private, and through the “different locations of human activities,” including, of course, into thought and judgment when appropriate. The actor is unexpected, and certainly privileged, but not the same as the citizen, juridical or otherwise. The citizen is the one who moves between the spheres, and yet is also able to “say what we are doing,” making he or she a spectator and perhaps also an historian. Perhaps this notion of citizenship, as not juridical but involving the ability to move from sphere to sphere (note how Arendt connects freedom to mobility in *Origins of Totalitarianism*), could be useful politically, particularly if we think about how different the world might look if people were as free to move as capital is. It is also much friendlier to feminist modifications than an Arendt of action, given that citizenship as work, maintenance and the ability to manage and protect one’s privacy are friendly to a wide range of feminist thinking.

There is also an overlooked bridge between politics and work in Arendt’s elevation of promises in Chapter 5 of *The Human Condition*. Here she says that work and labor require miraculous intervention from outside to give them meaning; Action contains within itself “potentialities” which redeem. One of these is forgiveness, which Arendt reads as a reaction that nonetheless “does not merely re-act but acts anew and unexpect-

edly, unconditioned by the act which provoked it.”⁵²⁷ While she says forgiveness and promise making are also rooted in Action, she begins with the “power of stabilization” inherent in promising making, which is also analogous to Roman Law (always a signal for borders, stability, constitutionalism). Why are promises properly in the realm of Action and not Work, if their very purpose is to bind actors together and provide some limits on their action, particularly on the possible ramifications of this action which cannot be predicted? The answer Arendt seems to give is that the plurality of human existence, and the radical non-sovereign nature of human freedom (where one cannot even understand one’s own actions, much less foretell their consequences beforehand) are mollified by promise giving, which is intimately bound up with power, one of the strongest linkages between the political and work. Power is opposed to both authority and force, consisting of “acting together.”⁵²⁸ And while power supports the political, it (and speech) is fleeting, and cannot “last” without the preservation that occurs, for Arendt, in the work of those who build, including historians and artists.

Thus promise making and forgiveness *are* properly part of work and power, just like citizenship. The powerful preserves the political, but it is created outside of it through the work of promise making. Thus she can say “sovereignty, which is always

527. Arendt, *The Human Condition*, 241.

528. Power seems to be a condition, or one of the conditions, for the political, in that it: preserves the public realm and the space of appearance, and as such is also the lifeblood of the human artifice, which, unless it is the scene of action and speech, of the web of human affairs and relationships and the stories engendered by them, lacks its ultimate *raison d’être*. *Ibid.*, 204.

spurious if claimed by a isolated single entity, be it the individual entity of the person or the collective entity of a nation, assumes, in the case of many men mutually bound by promises, a certain limited reality.⁵²⁹ This helps us see how the concept of citizenship discussed above is more than a social capital argument, where all voluntary associations are good. Arendtian publics are built around political problem solving, not shared identity or mere territorial space.

The worker who builds such a public is one who has and helps provide a place in the common world. This world seems to be the most prominent condition of the political and must be built and maintained by workers, who develop the skills for praxis through their attentiveness to the need to make the world hospitable to human life in its variety. Indeed, Arendt tells us as much in the claim “world alienation, and not self-alienation as Marx thought, has been the hallmark of the modern age.”⁵³⁰ Through the problem of world alienation and superfluity, Arendt addresses somewhat the fact that her entire text has been considering an “age” she thinks we have already left behind, but gives some hints as to where we stand after the event of atomic explosions. It is one of the few places in *THC* where she discusses contemporary political structures, linking them back to

529 Ibid., 245. Note that this Arendtian political subject is not bound together by ideology, or by Rousseau’s General Will, disparaged as magic, but rather towards “an agreed purpose for which alone the promises are valid and binding,” Ibid.

530. Ibid.,255. This world alienation is directly connected to “naked exposed to the exigencies of life” caused by capitalism, which as we saw in *Origins of Totalitarianism*, was a key enabler of the totalitarian construction of superfluous humanity. Arendt, *Origins*, 255).

the section titled “Decline of the Nation State and the Rights of Man” in *Origins of Totalitarianism*, where the phrase “the right to have rights” is found. She states that “just as the family and its property were replaced by class membership and national territory, so mankind now begins to replace nationally bound societies, and the earth replaces the limited state territory.”⁵³¹ This is not a call for return to nation state systems, but a claim that humanity elevated to a political principle cannot guarantee “a privately owned share in the world.”⁵³² Only a supportive network can do this.

What has happened today to these networks, and their builders, *homo faber*, who seems so important for both Arendt’s critique of capitalism and her charting of human activities? In the guise of Thomas Hobbes, he is guilty of attempting “to act in the form of making” in the political world which denies “the event itself.”⁵³³ The worker also is unable to justify his or her actions without an external measure, and thus, using humanity as a measure, erodes into the cycle of labor.⁵³⁴ The worker is also focused on tools rather than things- on happiness rather than use, and thus without a worldly reality.⁵³⁵ The prob-

531. Arendt, *On The Human Condition*, 257.

532. Ibid.

533. Ibid., 300.

534. There is not much work being done in the modern world, per Arendt’s reading, because the elevation of process: deprived man as maker and builder of those fixed and permanent standards and measurements... which have always served him as guides for his doing and criteria for his judgment.” Ibid., 307.

535. Ibid., 309.

lem is not that work is everywhere, but that it is nowhere, or the only place it is occurring in in a perverted politics that imagines that the future can be planned or constructed.

If the worker is missing, and if as I've suggested earlier the realm of work is where to properly locate citizenship and the right to have rights, perhaps before we attempt to act, or instead of focusing on action, we should build on Arendt's analysis to think about how common spaces or powerful solidarities can be founded. This work would still need to be open to the possibility of an "event," or the emergence of something new into the world, in particular because it needs to find a way to preserve and speak about these events without subjugating them to an overarching historical narrative or predetermined ideology. But the thread that connects the politics, as we commonly conceive them, with politics in Arendt seems to be related to work: world-building, power, web of relationships, human artifice, durability, permanence, art, history, culture. Particularly because action is itself fleeting and unpredictable, there is little to be gained from advocating directly that we act. We cannot "make" politics, but it does seem that we can develop citizenship as a concept and practice that is attentive to both world making and natality.

CHAPTER SEVEN: TRANSFORMING WORK AND PROMOTING CO- CONSTITUTIVE CITIZENSHIP

7.1 Revisiting the Research Questions

I came to this project with three central questions that needed to be answered in order to proceed towards a political theory of work. The first question is about the political relationship of work to labor, or, put another way, of identifying a hierarchy of work. The second asks how work/labor hierarchies relate to political citizenship, in both a legal and normative sense. The third is whether political work can be valued without devaluing work that is not political, particularly physical or care labor that has been understood as its antithesis. It is the third that is still open, given that it asks us not only to understand theoretical and historical relationships, but also to undertake a political practice. However, the idea of constitutive citizenship I am advancing, rooted in the interdependent nature of work, labor and action and also the contestability of these categories, would do a better job navigating this work/labor puzzle than the current American adoption of liberal producerism.

In terms of understanding how work and labor have been hierarchically defined, I have argued that political work, and the accompanying qualities that attend it, has been valued over labor- attendant on a distinction that is centrally about the independence that capital brings. While the distinctions between white-collar and blue-collar work may be salient, they are also a distraction from the shared situation for most who work for wages.

It is important that it is not just labor itself, in its manual or care form, that is understood as non-political, but that this definition leaks onto the laborer or caretaker, such that their activities are suspect in the political space, or understood as promoting their economic “interest” rather than acting truly political. In Arendt’s words, the marginalized insert the social into political life as they advocate for redistribution. This advocacy should be understood not pejoratively as Arendt does, but as an attempt to gain the standing and meet needs required for fuller inclusion in shared projects of political renewal. When the mass publics Habermas discusses appear, and when those most positioned to undertake political work (those with capital), are relieved from political obligation, we are in trouble. In this state, we end up in a world with all labor and no work *or* politics, much less a supportive practice of building and sustaining political spaces through constitutive citizenship.

Thus the hierarchy of work relates to citizenship and politics directly, in that work that is seen as political is defined narrowly and in such a way that it is unattainable for most workers. This is most clearly evidenced in the work of democratic theorists, who debate the proper forms for thinking and talking within the public sphere without asking about how it can be created. Creating a public sphere takes the type of political work that I am arguing has not be recognized as work at all, but private labor. This is because public spheres cohere around shared culture and texts, and are, in Arendt’s understanding, rooted in the ability of humans to produce solidarity through promise building. They require the cultivation of shared practices. The creation of such spaces and practice occurs

in my historical example of temperance and anti-temperance that suggests also that contesting reigning definitions of work can itself produce new publics that have political salience beyond identity effects, as well as make invisible reproductive labor visible.

The challenge is to promote such activity for today's laborer, who faces a depoliticized economic world whose politicization is seen as suspect. I have argued that, under Arendt's schema, we are all laborers today. Thus we should support policies that A: question or widen the definition of political work, centered on the co-constitutive ideal of citizenship or B: make it so those whose work is not political have full access to the political sphere. This last goal comes directly from how I have interpreted Hannah Arendt: if labor, work and action are all interrelated in complex ways and are all important, then the key to a good life is the ability to move between them. Indeed, mobility has long been associated with freedom, especially in the American context with its history of slavery. This only enhances Arendt's odd redefinition of privacy as the spaces and paths between.

7.2 Co-Constitutive Citizenship and the models of Shays and Temperance

Cultivating these paths requires redefining work. Neither historical event I have profiled suggests that it is easy to change either the way that work is defined or how these definitions carry over into the public spheres. They do, however, show that people have attempted both these projects simultaneously as part of protests and social movements in American history. The Regulators asserted a communal right to a political economy that allowed the hinterlands to flourish, and in particular reserved the collective right to take

up arms or occupy courtrooms when these demands were not met. In this, they also demanded that their work as laborers and soldiers was recognized as “counting” for citizenship, as much as the work of bankers and lawyers. Even as this exclusion was overcome and suffrage and paid work was extended *en masse*, Progressive attempts to insure that laborers could also be citizens failed to recognize the labor of women, whether in the home or the factory. Thus temperance activists attempted to solve this problem through the roundabout means of a prohibition on alcohol, which was (perhaps wrongly) understood as blocking both the political agency of laborers and the progress of women. This move did not work out as intended, but did make visible the labor of work, and prompted the creation of women’s public spheres to rival or replace the masculine public spheres of the saloon. While both cases should give us pause as to the unintended effects of any attempt at redefinition, they do suggest that those whose labor is currently not considered political or valuable can act in a co-constitutive way.

7.3 Co-Constitutive Citizenship builds Public Spheres

The idea of co-constitutive citizenship emerges from the public work ideal of Harry Boyte, as discussed in the introduction.⁵³⁶ Co-constitution means that citizens are able to and responsible for the political and social institutions under which they live. This concept is central for redefining what political work is, because it understands work

536. See 1.3 for a discussion of Boyte and public work.

broadly as anything that contributes to public politics. Co-constitutive citizens do not need to speak in terms of public reason or abandon the passions that animate them, and they can also engage in the sort of manual and care labor that has long been defined as opposite of democratic citizenship. Indeed, all that they need is to work together to create a public sphere, either for themselves or for the broader political community. This seems initially to be a suggestion that all shared projects are part of constitutive citizenship. Not so. The important limitation on this work is that constitutive citizens are seeking to create not just any public sphere, and not the bourgeois public sphere, but a democratic public sphere that is committed to keeping visible the labor that supports it, and (being democratic) to sharing this labor. In other words, it is a public sphere that is always aware of its own political economy.

That the public sphere is democratic means, in my understanding, that it is forever open to revision. In particular, the public sphere is open to contestation on the topic of its own constitutive exclusions, whether they relate to its political economy (which I've foregrounded as a neglected element) or social relations. This is not the same thing as saying that anything can and should be understood as political work, merely because an individual claims that his or her labor is required for politics (or others) to exist. Instead, the assertion of groups of workers, united by their shared experiences of exclusion, makes labor that was once invisible, visible, as in the case of reproductive labor in the advocacy of temperance activists. In the contemporary political scene, attempts to make the labor of undocumented immigrants "speak" or to connect consumptive practices to

workers abroad or farm animals at home make similar moves. Without the attempts of workers to insert these questions into a public space, or without the existence of one in which they can be recognized and considered, work and labor become static concepts that reflect too fully existing power hierarchies.

7.4 Recuperating Habermas with the help of Agonism

In Aristotle's conception, the division of labor in the city meant that the laborer would never be the same person as the citizen, because his or her way of life and skill preclude it. Whether this sharp division of labor was required in his own time or not, it is certainly not required in ours. There is no reason why every person cannot perform a share of labor, work and political action. This is the lesson we should take from Hannah Arendt, not the glorification of action that we usually do. And this lesson is less in contrast with Habermas than usually thought. In *Structural Transformation*, Habermas premises the creation of the bourgeois public sphere on the tension between advancing one's own economic interest and the bracketing of this interest when one is engaging in public discourse.⁵³⁷ In mass publics, along with the disappearance of the space for this discourse thanks to the growth of public opinion as a mode of politics, this tension is lost, particularly as few citizens have the capital they need to protect that would lead them to sustain a public sphere in the first place. For co-constitutive citizenship to work, citizens need

537. See 2.2

this stable “hearth” from that allows them to develop such that they can move between their different concerns (those of labor/necessity, work/world, and action/politics) both in their internal dialogue and exercise of political judgment. This mobility, properly understood, is freedom. Habermas is not optimistic that such mobility is possible, because he sees a world where “system”-economic thinking-has overtaken the “lifeworld” where politics and the shared world would be. However, my suggestion is that the ability to grow the lifeworld is in the hands of citizens, particularly if this work of growth is given both a freer rein and material support.

A different way to put this point is to suggest that the type of public sphere I want to build and the type of co-constitutive citizen I want to promote is an engaged in agonistic institutionalism. This is an amalgamation that would no doubt drive most agonists insane, given their interest in a fluid politics of openness and contestation. I want agonistic institutions not for the sake of practicality, although it is also practical, but because one the key tasks of co-constitutive citizens is the maintenance of these shared institutions. Agonism is about opening the political space to sharp disagreement and rejecting the neutrality towards the good that characterizes liberalism, but there is no reason why space where contestation about the shared good life cannot be committed to sustaining this contestation itself.

7.5 Agonistic Maintenance as Constitutional Theory

The key institutional arrangement through which co-constitutive citizenship acts is a constitutional one, in both the broad sense of the constitution of a regime and specific sense

of a particular nation's constitutional "documents." Constitutionalism is premised on limitations on government, even on democracy, so it seems initially an odd choice to link with a politics that seeks to promote redefinition of key categories like work and labor, as well as the building of political spaces in which individuals can do this redefinition. However, in the United States and elsewhere, the law has served as a model for how tension over understandings of labor, work and politics can be explored and changed. In particular, the American common-law practice of judicial review has produced an inter-generational dialogue, lay and scholarly, on how to understand and order labor, as well as almost everything else. This does not mean that criticisms of judicial review and supremacy are off base; indeed, those looking to promote co-constitutive citizenship might find it particularly so, but they might also see a common conversation that needs to be at least a part of any public sphere.⁵³⁸

In terms of my argument, *Lochner* and *Muller* serve as a common set of texts around which we can discuss key questions important to any regime that seeks some sort of common good. *Lochner* requires us to consider the place of the market in a democratic society, the limits of federal power, the role of the judiciary, as well as substantive due process. Co-constitutive citizenship requires a conception of substantive due process, in the worlds of Supreme Court Precedent, or needs, in the work of Simone Weil. This means that *Lochner* is reformulated to be about *need* and what individuals need, not just

538 This is a version of the argument of: Sanford Levinson, *Constitutional Faith*, Reprint (Princeton University Press, 2011).

to stay alive, but to fully take their place as governing members of the American political body. The “right to work” is not understood as a negative right to make contracts, or a positive right to individual life, but rather a substantive and communal right that accrues to the needs of the community. Similarly, *Muller* and its problematic recognition and yet unrecognition of how expectations of women’s work are differentiated by class can be disconnected from its naturalized imposition of sexist gender roles and instead understand the importance of thinking work and family together when developing policy. *Muller* offends modern sensibilities, just as *Lochner* does, but the actual importance of families, if not defined in the limited sense of a male breadwinner and female homemaker, in relation to work is key.

It also means that people should have a larger role in the constitutional dialogue. They will not get this because legal elites, law professor or not, commit to it but because they demand it as a collective right. This will only happen when they engage in projects that push us towards the need to claim this sort of competency. For example, activism around Occupy Wall Street, which criticized the role of money in politics, led individuals to development a movement centered around rejecting the court’s ruling in *Citizens United v. Federal Election Commission*.⁵³⁹

539 [558 U.S. 310](#) (2010).

7.6 Overcoming Contemporary Challenges to Co-Constitutive Citizenship

If political theorists want to advance their democratic and Arendtian goals, they must attend to the challenges that the contemporary world of work, especially in terms of its precarity, ubiquity, depoliticalization and deeply troubled relationship with gender and reproductive labor. All of these challenges are daunting, and no doubt a fully developed political theory of work would attack them all. However, the core problem for this dissertation has been the status of labor and work, best epitomized in a contemporary sense by the incompatibility of wage labor and work in the home. If we are developing a politics that supports the ability of co-constitutive citizens to alter the conditions under which they live and work, the place to start is with work and the family. The other three challenges are all tied together in this problem. Precarity is part both of the pressure on families to be dual-earner households and of the feminization of labor that insures that devalued care work costs less to procure (or pays less if you are the one performing it). The spread of labor into the rest of life is only a problem if there is something, whether politics or families or both, that we want to do that is not labor. And if we politicize the incompatibility of waged work with secure family life, defined broadly, then we move questions about what work is and what it could be solidly into the political space.

7.7 Making Careers *and* Jobs Compatible with Care

The relationship between gender, care labor and work is a particularly traumatized victim of work today, given the real effects on children and workers. Because the raising of children is the most time-consuming and costly of care labor, it has long been politicized as a potential avenue of change. The most common approach is to advocate a more robust set of protections, such as parental leave, for new parents, expanding on the minimal protections granted by the Family Medical Leave Act, which requires that employers retain workers and allowed them unpaid leave when they have children. Family Leave advocacy also seeks to alter the gendered responsibilities of parenting by making parental leave either widely available or mandatory for fathers as well, in hopes of altering divisions of labor in the home and removing what is seen as a barrier to the advancement of professional women. We can follow the lead of New Jersey and California and develop a national family and medical leave insurance program that every worker pays into in order to fund this initiative.

These policies are admirable and necessary, but they will not challenge the dominance of paid work over unpaid work in the home, and therefore also not aid those who perform unpaid care work from gaining economic, social or political standing. One avenue would be to raise the minimum wage in the United States, although this has the drawback of being politically unpopular and not reaching those who work under the table. This includes many who work in the domestic sector, especially those who are undocumented. Indeed, it is probably the combined disadvantages of immigration status and

gendered labor that keep domestic work such as cleaning and nannying so inexpensive. Immigration reform that includes a path to citizenship for such workers, because of their contributions, would ease some of these tensions and at least make it so that domestic workers can avail themselves of the same hard-won protections against harassment and fraud as workers who are “legal.”

If the problem were merely the lack of compensation, in a material sense, for work done outside the formal economy, than proposals to pay those who engage in care work directly from the state would be more compelling.⁵⁴⁰ Heterosexual couples with “two careers”, as distinguished from dual paycheck households by class markers, often solve this problem through engaging domestic workers either as house cleaners, or nannies or both. This is not a solution for the broader problem, both because it is not available to most families and is itself a problematic, and perhaps just outright unjust, practice. It is unjust not only because, compared to the intense demands they make on one’s time and skill, they pay poorly, but also because they are entail entering a family, construed as a private space, as an inferior member who must obey, even against his or her own values

540. This was the platform of Selma James, Maria Della Costa and the other 1970’s feminist Marxists whose understanding of reproductive labor as what sustains capitalism was useful in Chapter 5. We could also derive this claim theoretically from a reading of John Locke’s original account of primitive accumulation and the centrality of women’s bodies as their own capital. Nancy J. Hirschmann “Johnny We Hardly Knew You” in Nancy J. Hirschmann and Kirstie Morna McClure, *Feminist Interpretations of John Locke* (Penn State Press, 2007), 1-17.

or beliefs.⁵⁴¹ “We need to build communications mechanisms so that people under the scope of our power can raise any concern at an early stage, request or be offered information they are entitled to, and be themselves to the extent that they are as well known as they should be. These kinds of things are not achieved by a pure heart and gritted teeth, but by sustained work.”⁵⁴² Anyone can help alter these relationships.

In terms of making employment compatible with care responsibility for all workers, including men, part-time workers, and those in non-traditional relationships to children or other dependents, there are many policies we can consider. We can expand on the recent gains in cities and states in the area of paid sick leave, such that those in hourly work have the same abilities as professionals to stay home when necessary. We can strengthen the ability of unions, public and private sector, to file grievances when employees are fired because they miss or leave work to care for children or other dependents. Because unions are under attack in the United States, their historical position as the best protection for worker’s well-being and rights is at issue. Supporters of co-constitutive citizenship should advocate not only for the importance and strength of un-

541. “One consequence of this greater freedom for women to become professionals has been to increase social and economic inequality between households.” Milkman, Reese, and Roth 1998, quoted in Joan C. Tronto, “The ‘Nanny’ Question in Feminism,” *Hypatia* 17, no. 2 (Spring 2002): 34. Her broader argument is that the unjust nature of domestic employment is covered over by the ideology of competitive mothering, as well as a tendency to assume that domestic work is just like any other market exchange, despite its intimacy

542. Garielle Meagher, *Friend Or Flunkey?: Paid Domestic Workers in the New Economy* (UNSW Press, 2003), 150.

ions, but to help unions advance past their connections to specific industries to a broader coalition of workers. This is in essence a revival of the Industrial Workers of the World and industrial unionism, except that the future of unions must be centered on more than just waged workers. It must include waged workers who work in the black market, or unwaged workers in the home. It must include the unemployed, who are most marginalized by the association of good work with good citizenship. This does not mean that the future of unions is a rejection of the association of unionism with workers; rather, it is the recognition that limiting the idea of work to industrial or waged labor, as the IWW still does, does not capture the realities of work and in fact limits the union's ability to organize.

Unions are in part embattled because they are framed as part of what is preventing economic growth, when actually they are deeply embedded in the same sort of producerism that characterizes their opponents on the right's critique of unions and welfare. To combat this, unions need to not only work to politicize and improve the workplace, but to sustain and produce a politics in which public debate is possible. This means coalition building, not only between different types of unions, but also with immigrant's rights groups and feminist organizations who see work and its definition as key.

7.8 Contingent Labor and the Family

Can contingent and part-time work be made *better*, both in the sense of what it offers in rewards to the worker and what it means for families? Not without significant

changes. As any actual worker knows, substantive benefits such as health, life and other insurances, as well as retirement plans are linked to full-time work, and have been in the United States since their melding under WWII wage-stability measures. This aligns with the general association of a independent worker with good citizenship, which as we've seen is echoed throughout historical political struggles for inclusion. One possibility would be the gradual extension of the benefits usually associated with full-time work to part-timers, leaving behind the dream of the family wage and the often problematic exclusions of women from the workplace it entailed.⁵⁴³ In this scheme, which is already in place in some unionized situations, part-time work would become much more expensive for employers and pay more to employees, given that benefits generally add about a third extra to wage costs. While part-time work already pays significantly less per hour or work unit, even without accounting for benefits, this would be a noticeable shift. We could also imagine a situation where some of the potential benefits, such as health care, have been shifted to the federal government, leaving employers with less incentive to differentiate so starkly between part and full time workers.⁵⁴⁴ Both of these ideas are politi-

543. For example, black women lost out on paid work in the 1960's as policies favored black male led households.

544. Indeed, in Europe, part-time work is the primary source of job growth since the 1980s and a big explanation for the large welfare state's ability to hold unemployment relatively low in relation to economic growth. Chris Brewster, Lesley Mayne, and Olga Tregaskis, "Flexible Working in Europe," *Journal of World Business* 32, no. 2 (Summer97 1997): 133–151. In Scandinavian countries, it is the situation in which most women workers and many men are employed part-time and bolstered by the "cradle to grave" welfare state, as well as aggressive union bargaining for wages. Richard Freeman, "War of the Models: Which Labor Market Institutions for the 21st Century?," *Labour Economics* 5, no. 1 (1998): 1–24.

cally difficult to support in the current ideological climate and given the prominent place of business in American political life. However, a renewed labor movement that considers all citizens potential workers might help push the government in this direction.

There are, however, policy proposals for increasing the viability of part-time work in the United States, particularly in terms of its relationship to social status and perceptions of worth and dignity. We could, for example, raise the minimum wage significantly, provide universal healthcare coverage and preserve or expand the Earned Income Tax Credit, which supports those who work in jobs that pay little more, or sometimes less, than public assistance would.⁵⁴⁵

If it is right that benefits are central for revamping part-time work, which of course is in turn central for supporting diverse families and those who care for children or other dependents, then the Patient Care and Affordable Care Act of 2013 could (have been or could still) be a basis for change. The ACA is a complex set of laws, credits, mandates and regulations whose power to shift the labor markets is as yet uncertain. In a certain way, the ACA is a response to the increasing prominence of part-time and contingent labor, because its increase is accompanied by declining rates of health care coverage

545. These proposals come from Charles Tilly, who details the problems with the part-time shift that has occurred since the 1970's, arguing that its celebration on the part of some economic analysts misses both the involuntary nature of this work, given its participant's interest in full time employment, and the stark material and social costs to working part-time in America. He also advocates less work for everyone, full or part time, noting that studies show little drop in productivity when vacation hours are increased or days shortened. Chris Tilly, "Dualism in Part-Time Employment," *Industrial Relations: A Journal of Economy and Society* 31, no. 2 (1992): 330-347, doi:10.1111/j.1468-232X.1992.tb00312.x.

as well as income inequality and disparity in health outcomes. The ACA requires that employers offer health care plans, or face penalties, for all workers who work 30 hours or more (its definition of full-time). On one hand, this is a lower threshold than often used to determine who receives benefits, so some employees who work hovers between 30-35 hours may receive coverage they have previously lacked. However, the law is silent on part-time workers, or rather they fall into the vast category of individuals who may be subject to the “individual mandate”, recently interpreted by the Supreme Court as a type of tax, which requires individuals to purchase health insurance. To support part-time workers or non-workers who fall into this category, the ACA creates insurance “exchanges” which hope to take advantage of economies of scale to provide reasonably priced coverage for the otherwise uninsured. Insurance exchanges are a relatively untested, and their details have been largely left up to individual states who, when led by Republican governors, have been reluctant to cooperate. If the ACA had only demanded health care coverage for all workers, part or full time, it could have had an even greater potential effect on precarity. It is unclear whether part-time workers will be more attractive, generally, to employers because they do not require benefits or whether the outside availability of health-care coverage will even the playing field somewhat and allow those who desire the flexibility of part-time work but need to retain health care coverage will shift to these jobs willingly.

The drafters of the ACA missed a big opportunity to improve the lives of part-time workers in the United States, as well as provide greater support for lower income

people who have care responsibilities outside the workplace. While the insurance exchanges, and the end of existing condition restrictions, may be meaningful for these populations, they do not create a world in which the decision to work less comes with financial and social consequences that are limited to the decrease in hours worked and proportional pay losses. If employers had been required to offer coverage for employees who worked at least 20 hours, or even 25, millions more would have been covered. Alternatively, the government (or states) could have developed a federal program, or expanded Medicare or Medicaid (the later perhaps constitutionally problematic given the recent ruling) to offer a clearly affordable alternative. Part-time workers who have the support of robust health coverage would not be as vulnerable, and may in fact be better off financially (and as a family) than if they worked full time and had to pay for child care.

7.9 Recreating the Family

An important caveat. When the word “family” is thrown around, it can easily be a code word for traditional gender roles and the privileging of the heterosexual pair. This symbolic entity has a great deal of rhetorical heft, as can be seen in the way that the Gay rights movement has used traditional symbols of love and family to advocate for gay marriage, to the dismay of queer theorists who wonder what is lost when state-legitimated

pair-bonding becomes normalized for all.⁵⁴⁶ I am absolutely arguing that work and family need to be made more compatible, but this does not meet that the workplace needs to adjust to meet the demands of the pre-political and natural family.⁵⁴⁷ However, calls for re-making work are calls for remaking the family, and they allow for more varieties of family life and gender roles to be supportive.

Most importantly, changing the pressures of work take the burden of shifting gender norms away from individual men and women, who are upbraided for “choosing” to stay home or go to work, to hire help or send kids to daycare, when the incentive structure that privileges this or that choice is not under question. The Family Medical Leave Act (FMLA) of 1993, while only providing leave for a limited number of employees, was successful in part because it did not limit leave to care of children, nor to only mothers or fathers. This openness can and should be extended, supporting all sorts of care, and applied to businesses of all sizes. It must also protect those in non-heterosexual paired relationships, be they gay, polygamous or multi-generation households.⁵⁴⁸ We also could

546 For this argument, see: Michael Warner, “Normal and Normaller: Beyond Gay Marriage,” *GLQ: A Journal of Lesbian and Gay Studies* 5, no. 2 (January 1, 1999): 119–171, doi:10.1215/10642684-5-2-119.

547. Indeed, Susan Moller Okin’s argument for considering the family as one of the central institutions under debate in a just polity is still dead right. Susan Moller Okin, *Justice, Gender, and the Family* (Basic Books, 1991).

548. We could consider moving “from marriage to kinship contracts” as suggested in a provocative argument for ending birthright citizenship and the state sponsored benefits of marriage to dissolve of gendered practices of care that conflict with work. Jacqueline Stevens, *States Without Nations: Citizenship for Mortals* (Columbia University Press, 2011), 180.

think more creatively about the possibilities for communal living, whether in larger, multi-generation, or cyborg assemblies.⁵⁴⁹

7.10 Who's afraid to seize the state?

A coalition of immigration, welfare, working class and feminist activists and theorists need to recognize that the common source of their struggle is the organization of work and politics in relation to it. They also must argue that the choice between government bureaucracy and the natural institutions of the market is a false choice; progressives who care about work and family must reject this dichotomy and use the state. This does not have to mean social control or bureaucratic nightmares. It does not have to mean welfare as we know it. Instead it means inventive supports that allow citizens to create the institutions they want to be a part of, particularly support that creates meets the broad ranging needs. This sort of policy should be joined with assertions of constitutional competency of individuals and groups, such that even these provisions are open to democratic revision.

549. For an encounter with Toni Morrison and an argument for a new family See Nina Power, *One Dimensional Woman* (O Books, John Hunt, 2009), 71. For an even more radical approach, we might consider whether "But we would have to discard it [the biological family] totally before we could hope to eliminate the oppression altogether. Shulamith Firestone, *The Dialectic of Sex: The Case for Feminist Revolution* (Macmillan, 2003), 97. For the cyborg who "is our ontology; it gives us our politics." Donna Jeanne Haraway, *A Manifesto for Cyborgs : Science, Technology, and Socialist Feminism in the 1980s* (Center for Social Research and Education, 1985). (66).

This is one way to understand the animus for both the Occupy Wall Street protests and the Tea Party movement in the 2000s. Indeed, the Tea Party movement makes more sense when read in the context of a devalued status citizenship. The Tea Party comes out of an anti-tax movement with libertarian associations that gained traction in response to the Obama administration's health care plans.⁵⁵⁰ While it has often been argued that the Tea Party is long on populist rage and short on policy prescriptions, this is not exactly the case. In general, the Tea Party espouses a modified Hayekian libertarianism, restricting the state to the operation of police powers and the sort of infrastructure that allows commerce to flourish, such as roads.⁵⁵¹ They pick up on a tradition of arguments about freedom, government waste, the evils of socialism and the abuses of taxation that have echoes throughout American history. But isn't this precisely a signal that the traditional *political* aspects of citizenship in America have lost their luster? While the tea party has institutionalized to a great extent, in fact become a piece of the republic party hoping to dominate electorally, it at least purported at first to be a movement against representation

550. Perhaps the Tea Party is rooted in “the deeply held fiction of individual autonomy and self-sufficiency that are intrinsic parts of Americans’ collective self-understanding” and anger when this is shown to be deeply dependent on government assistance. Perhaps this is just another way of seeing the movement as a class-bound reaction, both to the losses of jobs and wealth and, perhaps, to the symbolism of the election of a black president. Jay Bernstein, “The Very Angry Tea Party,” *Opinionator*, July 13, 2010, <http://opinionator.blogs.nytimes.com/2010/06/13/the-very-angry-tea-party/> 1

551. While Sotiris Barber has done a masterful job arguing that any admission that provision of public goods are necessary logically leads to support of a welfare state, tea party candidates have not read his book. Sotiris A. Barber, *Welfare And the Constitution* (Princeton University Press, 2005).

and, even, institutionalized democracy. It is this aspect that is interesting, and mirrors the theoretical bent of activists on the anarchist left.

Occupy Wall Street and related movements, which take their bearings in part from the same traditions of anti-capitalist protests, anarchist thought and activist tradition as the Zapatistas, are also critical of the state apparatus, although like the Tea Party this general orientation has exceptions. For OWS theory, the most likely space in which a less critical stances towards government emerges with calls for regulation of the financial system. These calls are often accompanied by claims that suggest that the government itself is responsible for construction financial markets in certain harmful ways, although market naturalism is also present. Like the Tea Party, OWS has a particular interest in American constitutional law and jurisprudence, although their orientation is not towards originalism. Instead, the animating principle of their admittedly nascent jurisprudence seems to center around a rejection of the concept of corporate personhood that they see as reflected in the *Citizens United* case.

While these populist social movements have understandably generating a great deal of interest, in no small part because of their at least reflection of the energy of the popular protests of 2011 and into 2012 in the Middle East and North Africa, their tendency to abandon the “traditional” fields of political struggle, both formal/electoral and those

in a more social space, such as union activity, may be problematic.⁵⁵² The desire to use the state to solve problems seems, at best, passé and at worst, terribly dangerous. Yet, we should not be afraid of the state. The shadow of Stalin and state led communism, as well as the noted failure of so many attempts to make society more healthy and productive, should give us pause. But not all types of policy required that the state monitor its citizens or create a vast management system. This situation, or perception, is of course enhanced by a discourse of globalization that frames national domestic politics as less vital than global trade. However the state may be declining in importance, we should not jettison with it the hope of a public space in which democratic activity is possible- and the first job of citizens is to build this space.

7.11 Combating the Marginalization of Non-Wage Workers

One of the largest reasons for supporting full employment is the social integration that occurs as part of work; it is no accident that those who do not work outside the home (with exceptions for certain segments of the population who perform socially acceptable

552. Jodi Dean argues that this has occurred, particularly on the left, out of a fear of failure and a tendency to assume that the social aspects of the internet and communications will function politically in a way they have yet to. She argues that the vast majority of Internet communication is not communication at all, but endless circulation. Her attack on capitalism comes from a Lacanian and Zizekian framework, focusing on the way that desire in capitalism is configured in an unobtainable fashion. But her analysis, perhaps absent some of the focus on *object petit a*, is also applicable to citizenship. Jodi Dean, *Democracy and Other Neoliberal Fantasies: Communicative Capitalism and Left Politics* (Duke University Press, 2009).

alternative forms of labor, such as mothers and caretakers for the elderly) often report psychological distress and tend to have higher rates of crime, suicide and lower of political participation.⁵⁵³ Both groups are excused, in a sense, from labor, yet with this excuse comes a lack of connection to the world in which most communication and socialization takes place. Marginalization is also a central facet of life for many immigrant communities, especially when these communities are in a country where they lack citizenship or legal resident status.

This marginalization (and the changing demographics of the global north) suggests that the "full employment" vision for the future will need to be modified, or at least understood differently.⁵⁵⁴ Given the growth of older populations, it makes sense for such programs to focus on creating alternative systems and centers where people of different ages, classes and working situations interact. These programs have typically centered around voluntary associations and the movement of the young into the private space of the elderly, such as in the Meals on Wheels and similar programs. More community-based efforts, however, have shown greater efficacy in connecting elders to their community and political systems. One of the more promising angles is the involvement of older citizens in community organizing efforts, such as the Tenderloin Senior Outreach Project

553. This is one reason why Young includes "marginalization" as one of her famous five faces of oppression, noting that it is the most dangerous, and linking this concern in particular to women and the old. Young, *Five Faces*.

554. Claus Offe has argued as much, suggesting that the welfare state must consider how informal and part-time workers can be revalued so that participants in these sectors are less marginalized.

(TSOP) in San Francisco, which puts the interests and agency of older people at its center, while still involved other age demographics.⁵⁵⁵ This would change our current approach to social gerontology, which erases the agency of elderly people, who navigate their aging amid social understandings of old age as a time of decrepitude and dependency, where the individual bears full responsibility for hardship.⁵⁵⁶ Similar projects have been tried elsewhere, often focused on community-generated issues of access to housing, healthcare and technological advances. These efforts counter the understanding, gleaned from social science survey data, that elderly are apolitical, or at least unlikely to do much more than vote.⁵⁵⁷ Similar programs could be developed for other types of marginalized unwaged workers.

7.12 Basic Income

This brings us to the central option in severing the connection between paid labor in the marketplace, citizenship and care labor: basic income. Basic income schemes have been under discussion since the first hints that the welfare states of Europe as well as the more market oriented United States might struggle to provide full employment for their

555. Meredith Minkler, *Community Organizing and Community Building for Health* (Rutgers University Press, 1997).

556. Emmanuelle Tulle, *Old Age and Agency* (Nova Publishers, 2004).

557. M. Kent Jennings and Gregory B. Markus, "Political Involvement in the Later Years: A Longitudinal Survey," *American Journal of Political Science* 32, no. 2 (May 1, 1988): 302–316, doi:10.2307/2111125.

citizens. The general concept of basic income is easy to understand: each person receives a wage from the government sufficient to maintain his or her life, of course the devil is in spelling out who counts as a person (citizen? man? child? elderly? ski bum?), at what government level this payment would be created, administered and overseen, and of course in what form and at what level payments would occur. These problems exist even without the larger issue of defining the philosophical defense of this policy, which itself should be situated in relation to the political challenges that would face such a proposal, particularly in the United States.⁵⁵⁸ We also would need to accompany basic income proposals with the above insurance that currently marginalized workers are integrated into community projects, rather than merely drawing a paycheck. A promising approach recognizes the limits of such models in thinking about employment in an age of transitional work and shifting employment schemas and therefore proposes renovating welfare state policies to provide additional security for workers in transitional and part-time jobs, allowing them to move freely throughout the labor force.⁵⁵⁹

The goals of this dissertation are partially met with a basic income scheme, in the sense that all, regardless of what type of work they perform or if they “work” at all, are

558. However, in considering these political difficulties it is important to realize that a guaranteed income movement was a real possibility in the United States in the 1960s and 1970s, and was supported by a diverse cast including Milton Friedman, Martin Luther King Jr. and Richard Nixon. Matthew C. Murray and Carole Pateman, *Basic Income Worldwide: Horizons of Reform* (Palgrave Macmillan, 2012).

559. Günther Schmid, Bernard Gazier and Bernard Gazier, *The Dynamics of Full Employment: Social Integration Through Transitional Labour Markets* (Edward Elgar Publishing, 2002).

afforded the same material benefits. However, the broader configurations of work and political membership may not flatten out so neatly with the introduction of a basic income. In households where education and income are equal between partners, heterosexual pairs still show a marked difference between care work done by each gender. In homosexual relationships, this difference is no longer statistically significant. The social norms related to carework are not reducible to the difference in a paycheck. Similarly, whatever inequality effects currently exist of gendered occupational segregation, which is present at all levels but nowhere more starkly than carework, would not disappear. Indeed, it is unclear how the labor market would respond a basic income at all; some have argued that minimum wage supports would be lowered to compensate, and certainly the cost of labor would change significantly. Cost of labor is presumed to increase because it is reasoned that many workers take unpleasant, low-status or minimum wage jobs because they have no other options for maintaining themselves physically. While there are many who work in these jobs despite the fact that they could make around the same from collecting state benefits, the arguments it that a basic wage for all would remove the stigma from receiving benefits and force low-wage employers to attract these otherwise secure workers with higher wages. Still, basic income is a powerful policy in that it undercuts the market evaluation of labor and work, and puts this act of definition squarely back in the hands of citizens.

Concerns about the effects on the labor market, in that a pure basic income guarantee essentially makes citizens independent of the market, have led to supports for “neg-

ative tax” policies which instead leave the current market system intact and function much as the Earned Income Tax Credit does in the United States.. Of course, this amounts to a means test for this benefit, and erodes its universal character. Indeed, despite the support for such an approach politically, a negative tax or partial basic income guarantee, despite its potential to change poverty, lacks the transformative nature of a universal basic income. The very point is to disrupt the labor market’s near monopoly on meeting of basic needs, which is supplemented currently with the family for some and the welfare state for others. Indeed, the point is also to lessen the ability of these other entities to extract labor from either family members or would-be welfare recipients with threat of bodily harm.

Instituting a policy like Basic Income would not be easy and it would not work well without broader transformative support. It would take the combined efforts of many groups who do not currently work together, and some, like my union of domestic and household workers, paid and unpaid, that do not exist. In particular, progressives will need to move away from identity and social politics and partner with the working class and working poor, as no other set of policy reforms has as much potential to improve the working and social lives of such a broad range of people. For cultural elites, this will mean leaving behind the elitism that has long divided the left from its former base. For working classes, it will require a willingness to leave behind a failing image of independent masculinity, in exchange for support for real, gender role diverse families where all

parents and children are supported as workers, thinkers and family members. Basic Income helps in all these areas.

The Basic Income Guarantee is an attempt to meet the theoretical challenges of Arendt's superfluosity and Weil's understanding of human needs. Arendt recognizes that the ability to take part in a political community, through central, does not equate to formal political membership (even if this is required in the current system of nation states). The first step towards exclusion of people from the political community is to make them superfluous through the exploitation of their labor and eroding of their dignity. The same broad need for inclusion that does not presume that the poor have no needs beyond material ones, and the combination of income and inclusion fostered by basic income schemes and the other supports for ungendering and revaluing care labor while also promoting political work that I've discussed above.

7.12 Conclusion

Of course, developing co-constitutive citizenship and democratic public spheres will require more work beyond transforming the status of carework. However, given the relationship between hierarchies of work and political membership, this transformative should be a powerful first step. It will then be up to the stronger and more diverse public spheres that I think workers, including the unemployed and the care worker, can build together to determine how best to continue to develop this sort of citizenship and to tackle the other challenges of the contemporary working world. No doubt, this would involve

a capitalism radically different from our own, and perhaps an end to capitalism altogether; this would be a product of the struggle and advocacy of actual citizens, not the imposition of such an idea from democratic theory. I have showed that we need to attend to work as part of our political theory, and that we need to share both work and labor as part of our political citizenship; it will take co-constitutive citizens together to act on this claim.

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