

Political Prohairesis: Political Accountability in a Tragic World

This essay hopes to outline the beginning of an answer to a large and fundamental question: For what and through which institutional devices should sovereigns be held politically accountable in a world of competing ideals, each of limited potential realization? The heart of this problem, it seems to me, is perhaps best considered in the Epictetian framing, namely, by asking, “What is *up to* the sovereign?”

Moral accountability follows from responsibility and capability. It certainly seems incorrect to hold someone accountable for that for which they are not responsible. Further, it seems intuitively mistaken to consider someone responsible for some task they are incapable of performing. Thus, without fleshing out a more formal argument, it seems intuitively wrong, for example, to hold children accountable for the outcome of adult matters for which they have no capability and consequently no responsibility. The kindergartner is not held accountable if the taxes go unpaid.

Political accountability should be similarly constructed. Political actors are justly accountable for those things for which the actors are responsible and capable of pursuing. No mortal sovereign, for example, should be held accountable for the movements of the planets. Far removed from the heavens, this paper hopes to begin construction on the framework needed to investigate what those things are for which political actors can justly be held politically accountable—what are those things over which political actors can capably exert determinative influence and for which they are responsible?

The paper proceeds in three stages corresponding with three primary interlocutors. The first section begins by attempting to articulate the specific tragic ontological condition that provides the context within which political accountability must

operate. Drawing from Thucydides, I make the case that the social-political condition of humanity is one in which there are well-articulated ideals that nonetheless are in competition and none of which can be fully realized. This sets boundaries and begins to structure our expectations of political capability. The fallible, competitive, and contingent ontological world in which political actors must operate places immediate and heavy limitations on their ability to effect outcomes. Insofar as political accountability is necessarily connected to actual capability, we cannot judge accountability against ideal goals.

Next, the second and third parts of the essay will comprise an attempt to articulate a positive account of sovereign accountability. Drawing from Epictetus' system of individual moral accountability, the model of political accountability suggested here is, in large part, an attempt to scale his model to the level of political rulers. Of particular importance will be the discussion of *prohairesis* and whether these phenomena satisfy the requirements to work as the site of judgment and political accountability in a tragic world.

Following Epictetus, I suggest political outcomes are inadequate to serve as the object of political examination. Rather it is the *judgments* correctly understood, of political actors that should provide the object of political examination and allow for the allotment of accountability. Critically, the Epictetian model of ethical accountability is particularistic yet non-consequentialist. This model holds individual political actors accountable precisely for that which they can control: the proper use of their 'faculty of choice' in deciding between external impressions. As will be articulated more thoroughly below, rather than allow political elites to hide behind the fog of contingency

and uncertainty which necessarily characterizes social reality, this model focuses not on outcomes—the causal pathways of which are likely only comprehensible in a cursory (and contested) manner—but rather on that for which the actor is always responsible, their *prohairesis*: the ability to correctly decipher what is under their control and the subsequent judgment of what is appropriate to attempt given their *specific* circumstances, context, and ultimate aims. Political actors should be held in account not for outcomes they cannot really determine anyway, but rather for their political *prohairesis*, that is to say, they will be held accountable for their political judgment.

Finally, any serious model of political accountability must pay careful attention to the institutional mechanisms involved therein. Thus, the third stage of this essay builds on the first two by considering two possible institutional arrangements to better facilitate holding elite political judgment to account. First, the paper considers the role of Socrates as public examiner and advocates for the primary focus of institutional design to better promote the examination of elites. The orienting goals are both transparency and candor, as described by Green.¹ For the Epictetian, what there is of truth is not to be found in the information of press releases, but rather, only in the personal characters of rulers. That is to say, rather than prioritize one of either transparency or candor over the other, in this interpretation, the data most demanded by transparency is only possible through candor — through the candid examination of particular persons.

Likewise, while candor alone as an orienting institutional value represents a vast improvement over more traditional values such as deliberation or neutral, “hard-data” transparency, building institutions of candor simultaneously constructs institutions of

¹ Green, Jeffrey Edward. *The Eyes of the People: Democracy in an Age of Spectatorship*. 2010. Oxford University Press

examination. In this way, transparency is not separate from candor; rather candor provides the necessary condition for an examination of political judgment. Socrates serves as our model examiner capable of drawing out the sovereign *prohairesis* and laying bare before the audience the decisions for which the political actor is accountable.

Additionally, I draw attention to the relatively underemphasized role of judges in Hobbes' *Leviathan*. Even in an absolutist regime, Hobbes' sovereign operates within a legal order. Relying on recent scholarship, I suggest Hobbes' principle of perspicuity generally and the institutional responsibilities of judges within his system provide an interesting possibility for evaluation of political judgment. As will be discussed in more detail below, Hobbes requires that judges must interpret sovereign command in such a way as to adhere with the laws of nature. Vitality, judges are empowered to demand an explanation of the reasoning behind any law. The sovereign's reply cannot simply be a restatement of the law itself, but rather must consist of an articulate "Declaration of the Causes, and Motives, for which it [the law] was made."² As will be discussed in more detail, whereas Socrates provides an excellent model of antagonistic examination of sovereign power, Hobbes' principle of perspicuity points towards a less adversarial institutional method of accounting for political judgment in relatively more mundane settings. Rather than choose between these two possibilities, it seems intuitive that both the gadfly and the judge would prove useful to a system of political accountability in a well-ordered regime.

To begin, though, a description is needed of the the ontological condition in which politics is located.

² Hobbes, Thomas. *Leviathan*. 1996. Eds, John Gaskin. Oxford University Press (p. 231 [182])

The Tragic Context of Accountability

There are three characteristics of the tragic worldview (these can be distinct tragic conceptions or elements of a more encompassing understanding of tragedy): 1) A scarcity of universal ideals in which brute might and power “make right”; 2) A condition in which ideal accounts are present but are in conflict; 3) A condition in which ideals are articulated and generally agreed upon, but prove ineffectual nonetheless. We can confidently reject the first, as it is unable to describe our contemporary political condition.³ Whether considered more broadly under such categories as equality, freedom, or virtue, or more narrowly as socialism, libertarianism, progressivism, rationalism, conservatism, traditionalism, pacifism, republicanism, or anarchism etc., there is no paucity of political ideals to which we could choose to appeal. Our condition is not tragic for lack of imagining something better.

Rather, we find ourselves in an ontological context better characterized by both conditions two and three in the typology described above. Immediately, it must be clarified how ideals in our tragic world can be both conflicting and generally agreed upon. This seeming paradox, however, captures quite beautifully pluralism in a cosmopolitan and connected world. Conflicts between Burkean traditionalism and Cartesian rationalism, for example, are poignant precisely because both can claim a great number of adherents. Furthermore, most universal ideas will articulate commitments that overlap significantly with other possible values. Many differing ideal value systems can make plausible claim to a foundation in something like the Golden Rule, while many will nonetheless interpret the demands of that maxim in ways that lead to deep, often

³ I owe these to Jeffrey Green who emphasized this framework in his Ancient Political Thought graduate seminar.

irreconcilable conflict. In short, meaningful conflict exists not despite some agreement but rather because it is agreement that allows for coalition building and further, more directly *political* conflict. Political disagreement is interesting not because the battle is straightforwardly between good and evil, but rather because the competing ideals can each claim many adherents with genuinely benevolent aims.

Of course, none of these ideals can ever be fully realized. Whether civic participation, material equality, individual liberty, or moral virtue, the instantiation of ideals is obstructed by unconquerable contingency, uncertainty, complexity, and brute fallibility. This is simply the human condition.

Acknowledging the fallibility inherent in the social world is by no means an admission of political, institutional, or value nihilism. That no state can secure for its citizens a condition of total freedom, perfectly fair and rational deliberation, complete egalitarianism, or unfailing virtue does not, of course, mean that we must simply give up — however it means we accomplish little in attempting to hold rulers responsible for this shortcoming. To do so only perpetuates a sort of utopian political mysticism that invites rather than allays popular disappointment and potentially deep civil unrest. The everyday person in their everyday life learns not to expect miracles, “violation[s] of the laws of nature”,⁴ yet a system of political accountability that proceeds by holding rulers to a standard of political outcomes reflecting realized ideal normative constructions does precisely this. It hopes for political miracles and judges harshly those who cannot deliver. In this way, “tragedies have no other subjects but the rich, and kings, and

⁴ Hume, David. *Against Miracles*. In *Philosophy of Religion: An Anthology* edited by Louis P. Pojman and Michael Rea. 2003. Thomson Wadsworth

tyrants.”⁵ The tragic condition I wish to describe is so foremost because it asks rulers to be heroes capable of instantiating ideals into the material world.

Thucydides often speaks of justice. He distrusts it, he denigrates those who make serious appeal to it, and he shows the sublime nature of those conditions in which justice does prevail — that is, sublime in the Schopenhaurian sense that such conditions cannot be more than fleeting. Thucydides famously claims that human action is largely driven by three primary motives, “ambition, fear, and our own advantage.” He warns us that, “those who have the power to use force, you see, have no need at all to go to law.”⁶ Yet, there is a normative basis to law.

In the Funeral Oration, Thucydides’ Pericles gives a detailed enumeration praising the great achievements of Athenian society. In the city-state citizens are equal under the law,⁷ candidates for public office are judged according to their virtue and their service to the city rather than by wealth or fame,⁸ everyone is free to pursue their respective goods (under the law),⁹ the city has grown wealthy through trade with other civilizations,¹⁰ and in Athens there is no shame in confessing poverty only in “doing nothing to escape it.”¹¹ Most famously, in Pericles’ Athens there existed above all else a value-ideal of the engaged citizen. Pericles dedicates the heart of his speech to the virtuous Athenian citizen. Such citizens, he tells us, are fundamentally “lovers of nobility

⁵ Epictetus. *The Discourses, The Handbook, Fragments*. 1995. Everyman Edition. Edited by Christopher Gill, Translated by Robin Hard (1.24.15) All citations of Epictetus come from this source

⁶ Thucydides. *On Justice Power and Human Nature: Selections from The History of the Peloponnesian War*. 1993. Translated and Edited by Paul Woodruff. Hackett Publishing Company (p. 23)

⁷ Ibid., 40

⁸ Ibid

⁹ Ibid., 41

¹⁰ Ibid., 41

¹¹ Ibid., 42

with restraint, and lovers of wisdom with out any softening of character.”¹² To this end, active engagement in the affairs of the body politic is the primary duty of the citizen. He goes so far as to proclaim “a man who does not take part in public affairs is good for nothing.”¹³ Pericles describes the deliberation of citizens as an act of bravery¹⁴ and in working towards the common good of the city before their own personal interests, “each man won praise for himself that will never grow old.”¹⁵ He summarizes by boasting, “our city as a whole is a lesson for Greece, and that each of us presents himself as a self-sufficient individual, disposed to the widest possible diversity of actions, with every grace and great versatility.”¹⁶ Not only are ideals such as honor, virtue, and liberty present in Thucydides account, Pericles’ Athens even provides us with an object lesson and model exemplifying that towards which civilizations should aspire. Thucydides world is not tragic because might equals right, but rather because those ideals are fleeting in their material instantiation — they too are vulnerable to the contingencies of existence.

The city-state of Athens was undone by the plague. Important for our purposes is the lesson explained by Woodruff: “The funeral oration gives us a bright picture of a wonderfully civilized city; the story of the plague shows how easily civilization slips away when times are hard.”¹⁷ The precariousness of material existence is inescapable. It does not require a thorough commitment to Platonic isomorphism to recognize that this simple, unavoidable condition of life applies just as much to polities as to individual persons. Robert Dahl put it quite straightforwardly when he wrote, “Because change is

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid., 44

¹⁶ Ibid., 43

¹⁷ Ibid., 46

so difficult to predict, a very large measure of uncertainty is an inescapable feature of political life.”¹⁸ Even Athenian democracy could be undone by bodily illness.

Thus, there are two ontological conditions that inform my classification of the political world as tragic. The first is the material contingency of politics captured so well in Thucydides, whether due to outside force, internal failure, or simply uncontrollable forces of nature. The second is the complexity underlying social life. By this, I mean (perhaps too glibly) that it is one thing to articulate ideals and another to realize them in the world of autonomous persons. In this interpretation, to live in a tragic condition is simply to admit there are factors beyond our control and causal pathways beyond our understanding; it “means abandoning the idea that we can take away from the future its radically contingent character.”¹⁹ However, to live in a context of tragedy is not to simply to admit defeat. Epictetus admitted the tragic condition of the social world and sought a way beyond simple nihilism.

Epictetian Moral Accountability

To understand Epictetus’ interpretation of Stoicism, it is vital to understand the worldview through which he sees human activity. Epictetus only makes sense in world characterized by contingency and complexity. As Stephens puts it: “Epictetus is not at all ignoring the tragic aspect of life. Rather, this is precisely what he diagnoses.”²⁰ Epictetus taught his students to succumb to neither conceit nor despair; neither to think they could determine the world around them nor to feel helpless at their inability to do so. But, far

¹⁸ Quoted in Wenman, Mark. *William E. Connolly: Resuming the Pluralist Tradition in American Political Science*. 2015. *Political Theory*. 43(1). 54-79. (p 67)

¹⁹ Hirsch, Alexander Keller. *Hope, Without Guarantees: Mourning, Natality, and the Will to Chance in Book XXIV of the Iliad*. 2015. *Theory & Event* (18.1) (p.11)

²⁰ Stephens, William. *Stoic Ethics: Epictetus and Happiness as Freedom*. 2007. Continuum International Publishing Group (p.37)

from merely extolling warnings, Epictetus proves a valuable teacher to us today because he offers a positive program capable of pursuing *eudaimonia*, moral evaluation, and constant educative improvement in a world beyond human control. In so doing, he not only provides an account of the good, but more relevant for the purpose of this essay, he describes how moral accountability can still be accomplished in a materially determinist context. Specifically, Epictetus sought “tranquility, fearlessness, and freedom” through an education attained by careful assessment of one’s use of right judgment.²¹

To secure these ends, he turned to Socrates. Epictetus tells us, “put the question to yourself, ‘What would Socrates or Zeno have done in this situation.’”²² In fact, Epictetus mentions Socrates more than twice as frequently as any other person; Socrates is his “example of examples.”²³ The core lesson of Socratic philosophy which Epictetus also sees as the necessary condition for achieving *eudaimonia* is, of course, to know oneself. In the Epictetian system, this requires locating the personality, the “oneself” and then determining the subsequent potentialities and limitations determined by that location. Ultimately, locating the self requires understanding what an individual can and cannot control.

Epictetus distinguishes between internals and externals. Externals are those things over which an individual cannot exert determinative control; they are not in our power. He lists as externals property, other people including intimate family and friends as well as more distant relations, our country, and strikingly: “the body, [and] the parts of the body.”²⁴ For Epictetus, material things are not under the power of individuals (or

²¹ Epictetus, *Discourses*, 2.1.21

²² Epictetus, *Handbook*, 299

²³ Starr, Chester. *Epictetus and the Tyrant*. 1949. *Classical Philology* (44.1), p. 28

²⁴ Epictetus, *Discourses*, 1.22.10-11

collectives of individuals), and thus cannot be the source either of the good or the person. This is not, of course, to say that the person does not interact with the material world. The person, housed in a material body, is in a position of constant reaction to the sensations of material externals. Whether the health of our body, the actions of others, or the fortune of our country, the person cannot escape the material condition — the space — of life. This point is worth emphasizing for it shows that though thoroughly individualistic, Epictetus' Stoicism is not atomistic. The person is necessarily distinct from all other things, but there is no desire to escape them. What tendencies there are in Epictetus towards asceticism, and they are not infrequent, are housed not in escapism but rather both in a self-assured humility and a commitment to didactic training. Moral accountability, and the *eudaimonia*, virtue, and freedom it makes possible, cannot have externals as objects because externals are not eligible for improvement. The individual cannot improve upon that which he or she cannot control.

The site of personhood and accountability lies in the internal. There are two key components to the internal person. That is to say, once an external sensation is registered a two step process is initiated: First, external sensations leave internal impressions. Second, the individual exercises his/her *prohairesis* to make a judgment as to which impression to take as the basis of their reaction. Crucially, the person is located in the “faculty of choice” exercised in the decision between impressions.²⁵ This act of judgment is *prohairesis*. Epictetus determines “*prohairesis* to be the true locus of the self.”²⁶ It is in the exercise of choice that the person is found.

²⁵ Ibid., 2.23.9-19 (where the phrased is used ten times)

²⁶ Stephens, 18

The location of the person in internal judgment is of momentous importance. In a tragic world in which material outcomes are beyond our control, by locating personhood in *prohairesis* Epictetus makes possible both moral accountability and education. Stephens explains, “Epictetus’ conception of the *prohairesis* is a deliberate invention designed to make room for moral accountability within the rigid material determinism of the Stoic universe.”²⁷ It escapes this determinism because only *prohairesis* is “potentially invincible and free from all hindrance, namely, only it can overcome itself.”²⁸ Externals, no matter how severe the sensations, how strong the impressions, can never take from us our ability to choose between them. Externals cannot overcome our internal faculty of decision.

In this way, as a product of our control, we are accountable for our own *prohairesis*. Rather than be judged according to material outcomes determined by luck, contingency, and compulsion, the person should only be evaluated on the basis of his/her judgment, over which he/she can never relinquish control. Our bodies may fail us as we attempt to translate our internal judgment into material result and fate may have other plans for even the most carefully considered choice. To judge someone based on externals is to apply an impossible metric. Epictetus thus constructs a heavy distinction between those things for which we may be blamed and for which we are blameless: “For what, then, have they made you accountable? For that which alone is in your power, the proper use of your impressions.”²⁹ While this distinction is helpful in carving out a site for moral evaluation in a tragic world, alone it is too stark to be of much practical use. Though perhaps easier than trying to outwit the contingency of the future, exercising

²⁷ Ibid., 26

²⁸ Ibid., 18

²⁹ Epictetus, *Discourses*, 1.12.34-35

right judgment in choosing how to react to the external world is no small task.

Fortunately, although no external sensations can overcome our *prohairesis*, it can overcome itself.

This self-overcoming allows for improvement and correction, and thus education. Perfect mastery of *prohairesis* is impossible — such would be the defining characteristic of the Stoic Sage; who are “famously not to be found.”³⁰ Because not even Socrates, let alone himself, has ever attained perfect mastery of *prohairesis*, Epictetus places high value on Stoic education. The goal of a proper education is two-fold: to better understand and recognize and how little is up to us, and to constantly seek to improve the use of our *prohairesis*.

Making a correct judgment is made more difficult in light of the highly particularistic nature of *prohairesis*. Any given exercise of *prohairesis* can only be evaluated according to the temporal context of the decision and the particular individual making the choice. That is to say, the Stoic who strives to rightly exercise his/her *prohairesis* can rely neither on deontological maxims nor consequentialist evaluations of externals. As the site of personhood, it should be no surprise that the correct employment of one’s *prohairesis* can only be evaluated in a highly personal, that is particularistic manner. We can only judge a “distinct individual’s epistemic disposition of his *prohairesis* at a given moment.”³¹ Good and evil are not appropriate to externals; externals are beyond mortal control and subsequently lack the intentionality requisite to be the objects of moral sanction. For Epictetus, our physical actions are products of our

³⁰ Brennan, Tad. *Socrates and Epictetus*. In *A Companion to Socrates*. 2006. Edited by Sara Ahbel-Rappe, Rachana Kamtekar. Blackwell Publishing (p. 291)

³¹ Braicovich, Rodrigo Sebastián. *Freedom and Determinism in Epictetus’ Discourses*. 2010. *The Classical Quarterly* (60) p. 202-220 (p. 202)

material, external bodies and are thus ineligible for moral judgment: “Epictetus states that my opinions, assents, judgments, and impulses *always* depend on me; my actions *never* do.”³² I can only be judged on my *prohairesis*.

Each *prohairesis* is unique both to the person whose personhood it constructs and the moment in which it is employed. It is incorrect to construct an ideal type *prohairesis* against which to evaluate all others. Just as neither external sensations nor the impressions they produce are uniform, so the *prohairesis* which must choose between them differs depending on the spatial, temporal, and personal context of the person making the decision. A judgment made in one context cannot correctly be evaluated through comparison to another judgment made in a different context.

Thus, ultimately, moral accountability lies within the individual’s ability to know themselves. It is only through a lifetime of reflection and examination that we can slowly improve our own unique abilities to exercise correct judgment in response to externals. I must know myself to know my own strengths, weaknesses, proclivities, prior opinions, and the direction in which prudence points me. Stephens explains:

“Now it so happens that the rational and the irrational are different for different persons, precisely as good and evil, and the profitable and the unprofitable, are different for different persons... But for determining the rational and the irrational, we employ not only our estimates of the value of external things, but also the criterion of that which is in keeping with one’s character.”³³

I will make poor judgments — for these I, and I alone am responsible. However, through the self-overcoming of my *prohairesis* I can educate myself to do better. “In other words: that *prohairesis* cannot be determined from the outside does not mean that it

³² Ibid., 204

³³ Stephens, xv

cannot be forced from the inside.”³⁴ Moral improvement is possible, but it depends on the courage to examine my choices which are in my control, and determination to train myself in hopes of doing better next time.

From Individual to Political Judgment

The move from Epictetus’ theory of individual moral accountability to a theory of political judgment is difficult, in part, because he had very little to say about politics. What little there is, focuses on the possibility for individual freedom in the face of external rule. In this regard, his biography helps explain his philosophy. Epictetus the philosopher was a former slave living under a tyrant. For him, politics was not something to participate in, rather it was something to endure. Starr tells us, “Unlike his teacher Musonius, Epictetus had nothing at all to say about the attributes of a good ruler. He was preaching a philosophy evolved out of the bitter days under Domitian and designed to fit his pupils for life in imperial Rome as he knew it.” His primary motivation under such rule was to “free man from the *fear of force*” and he had in mind “that man who, having learned that externals do not matter, can face the tyrant in his palace without fear.”³⁵ A tyrant is powerless over the Stoic who can boldly proclaim “You are master of my carcass. Take it.”³⁶ As inspiring an image as this may be, however, it does not help us construct a positive system of political accountability. For that we turn first to Socrates and then to Hobbes. The former provides a model for antagonistic political accountability while the latter suggests a model more procedural in nature.

As discussed above, Epictetus took Socrates as the example to be emulated above all others. That “Epictetus seems to have invoked Socrates’ name and fate on a daily

³⁴ Braicovich., 212

³⁵ Starr, 20-24

³⁶ Epictetus, *Discourses*, 1.19.9

basis”³⁷ is unsurprising because he understood Socrates as the paragon of commitment to the examination of the self and others. Epictetus understood himself “to be a follower of Socrates, in a provincial town in the second century CE, instead of fifth-century Athens” but he failed to extend the institution of examination to Socratic lengths.³⁸ That is to say, Epictetus’ failure to provide a philosophy of politics is foremost a failure of extending evaluation of *prohairesis* past self-examination and apply it to the examination of others. Now, to be sure, such examination of others is difficult due to the uniquely personal quality of *prohairesis*. Yet, if we are to truly take Socrates as the master example of examples, then we must consider the possibility that such examination can be undertaken in a fruitful manner. Socrates provides us with the necessary bridge from self-examination to political evaluation.

For our purposes, the most important difference between Socrates and Epictetus is exemplified in their social roles. Whereas Epictetus considered himself a teacher of Stoicism, Socrates was much more skeptical, and urgently sought knowledge, rather than attempting to teach it. Epictetus was self-assured in his knowledge of the good and the way of life most conducive to attain it. Thus, he saw his mission as that of the teacher disseminating the path to freedom and *eudaimonia* to his students. Socrates, however, claimed no such total knowledge. By his own assessment, he and everyone he could find came up short of full moral knowledge. Brennan explains, “He [Socrates] thinks that there is a body of systematic, expert ethical knowledge to be had. He has some views about what this knowledge might look like, both in its overall shape, and in regards to some of the details. But he does not think that his grasp of the details and their

³⁷ Brennan, 286

³⁸ Ibid., 295

interconnections comes close to constituting that knowledge.”³⁹ Most aware of his own ignorance, Socrates attempts not to teach, but rather to actively seek out truth. The great Socratic lesson for political accountability, however is found in his method of seeking: the examination of others.

Far from withholding judgment of others, Socratic evaluations are often conducted in a pointed, merciless manner. They provide the first model of political evaluation. Famously, Socrates cross-examined any who would abide him, regardless of occupation or social stature. In either case, he met inconsistencies of logic and inadequacies of reply with total destruction. Brennan refers to this as “Socratic humiliation: ‘Socratic irony has a different emotional freight, a sort of passive-aggressive hostility, that is generally lacking from Epictetus. For Epictetus, humility is a part of the philosopher’s garb, like his beard and rough cloak; for Socrates, it is a prelude to humiliating others.’”⁴⁰ In an effort to discover truth, Socrates unfailingly revealed the ignorance of others and rarely in a manner laden with empathy.

His examinations rarely dwelled on summary of actions or outcomes. Socrates was far more interested in internal justifications and explanations. He focused on internals, on opinions, conceptions, and judgments. These he invariably found to be lacking. But this failure of judgment and the examination by which it is revealed, prove useful as model of inter-personal accountability. Socrates shows that a theory of political accountability that distrusts the veracity of interpretations of material events may nevertheless prove capable of examination of internal judgments. As a gadfly, Socrates provoked friends, angered others, but also resisted and humiliated the social and political

³⁹ Ibid., 291

⁴⁰ Ibid

elite of his time by questioning them in such a way as to reveal their inner judgment, their *prohairesis*. He did not threaten as much as pester and annoy, but in so doing laid bare to evaluation the person rather than their actions. In this way, Socrates played the role of public examiner. He subjected even the elite to severe questioning in an effort to evaluate their judgment.

The institutional role of public examiner which Socrates exemplifies is noteworthy because it requires the personal examination of political elites. In order to evaluate the political judgment of the ruling elite, the ruled must be able to access, as much as is possible, the inner opinions and logics which comprise the *prohairesis* of the ruler. Political elites also respond to external sensations and must exercise their faculty of choice in deciding how to respond. To move from Epictetian self-examination to political evaluation of others requires an institution capable of Socratic persistence in demanding and considering the political judgments of those who rule.

Such an office would be particularly useful in times of momentous political crises, failures, and triumphs. Such moments both call out for careful and full examination but are also when it is most difficult to forget external, material outcomes and instead focus on that which the ruler can control: his or her judgment. The causal pathways to policy success or failure are ultimately incomprehensibly contingent and complex; such fog can both serve as a shield to the exceptionally charismatic leader and an unfair condemnation of the less captivating. In such situations it is only through determined, personal examination that knowledge can be gleaned, lessons learned, and leaders held justly to account.

But effective government concerns more than moments of tumult or triumph, thus governing institutions must also exist for the everyday. It is under such relatively stable, orderly conditions that the role of judges in the Hobbesian legal order provides an interesting possibility as they are the key institutional feature designed to fulfill the Hobbesian principle of perspicuity.

Dyzenhaus has compellingly argued that Hobbesian legal theory should be interpreted as “anti-positivist.”⁴¹ Briefly, Hobbes distinguishes between tyrant and legitimate ruler. The difference is found in the absence or presence of a legal order. Even though Hobbes is a command theorist of law, the ruler must nevertheless establish the rule of law and not rely on arbitrary decree. This puts Hobbes in a position between natural law theorists (especially as the term is usually understood in reference to the tradition stemming from Aquinas) and strict positivists like Hans Kelsen. That is to say, “in order for that judgment to be a successful command, it must be filtered through legal order...No judgment as to the common good counts as a command unless it meets whatever criteria are stipulated within legal order for a command to be recognized as such.”⁴² These requirements open up an interesting role for judges in the Hobbesian legal order.

Judges must interpret law so as to be consistent with the laws of nature, as described by Hobbes, but also cannot usurp for themselves the legislative function by explicitly voiding any law or unilaterally modifying existing command. Because the sovereign cannot legitimately require that which undermines peace, which is to say command those things that violate the laws of nature, judges may be potentially put in a

⁴¹ Dyzenhaus, David. *Hobbes and the Legitimacy of Law*. 2001. *Law and Philosophy* (20.5) 461-98

⁴² *Ibid.*, 483

difficult position if sovereign command seems to do so. When put in such a position, Hobbes requires the judges to do two things: 1) interpret the law in such a way as to be consistent with peace (as to do otherwise would be to insult the sovereign) and 2) when such an interpretation would require to judge to usurp lawmaking authority, then the judge should demand an explanation from the sovereign as to the reasoning behind the law.⁴³

It is this second requirement that is relevant to the argument of this paper. As Dyzenhaus puts it:

“In other words, perspicuousness or publicity for Hobbes is not a matter just of clear statement of what the law requires subjects to do, but of providing a reasoned justification of that requirement, in whose light what the law actually requires is to be understood: ‘The Perspicuity, consisteth not so much in the words of the Law itself, as in a Declaration of the Causes, and Motives, for which it was made.’”⁴⁴

This Hobbesian principle of perspicuity requires not only that rulers make intelligible law, but additionally, that they defend the causes and motives behind the law. That Hobbes leaves it to the judges to demand such an explanation, while interesting, is not of particular importance for our purposes here. Far more important is the principle he establishes. Clear articulations of the reasoning and judgments behind the formulation of law make political accountability easier in that they give wide access to political *prohairesis* which can then be evaluated and for which the leader can justly be held accountable. Obviously, it is a shortcoming of this particular institutional arrangement that the ruler maintains full control of the content of his explanation. Much like published judicial opinions in the United States however, even this requirement of articulated political judgment provides a valuable object of study and accountability for

⁴³ Ibid., “A judge, as we have seen, insults his sovereign when he ascribes to the sovereign the intention to deal inequitably with his subjects...the sovereign [should] explicitly state any intention to act inequitably”

⁴⁴ Ibid., 487; Dyzenhaus quotes *Leviathan* ch. 30 [182]

lawmakers. Additionally, this model may be more appropriate as a formal requirement of the legislative process, available for further, personal examination by a public examiner at a later time should the need arise.

Conclusion

Today, in the United States, we lack anything remotely resembling a public examiner. For all the resources spent on examining politics, even on a generous reading, most political evaluation rests either on sophisticated analysis to determine the relative success or failure of policy outcomes or, alternatively, surveys of usually un-or-misinformed public opinion. Ultimately, neither of these tell us much about the quality of judgment exercised by political elites. My contention is that these fail primarily because: 1) they attempt to capture sufficient causal explanations for complex social phenomena and, despite the best of intentions, rarely accomplish more than reductionist accounts and 2) such analyses are impersonal and thus unable to hold political elites accountable for those things which they can control: the exercise of their political judgment.

As Green has compellingly detailed, contemporary institutional structures are largely devoid of opportunities conducive to candor. This must certainly change. In addition, I'd like to suggest an additional component to the principle of transparency as described in his book. Where he describes transparency as relating to data and facts, I suggest that valuable transparency includes not only hard data and factual accounts of material resources and outcomes, but also political judgments which are clearly articulated and open to examination. In this interpretation, transparency meets the demand of the plebiscitarian, in that it not only values a truthful account of the political

judgment, but also understands that this account cannot be meaningful if divorced from “*who is saying it.*”⁴⁵ Put another way, the model described here joins the plebiscitarian in focusing on the “*personal, individual* experience of a leader undergoing questioning on the public stage”⁴⁶ while nonetheless emphasizing the instrumental value of such an examination in revealing the *prohairesis* of the political elite. Again, there is no conflict between the account described here and the principal of candor. Rather, this model simply posits that the judgments which candor can help make plain may serve as the site of political accountability.

It is already clear that this argument will be most conducive to those skeptical of the human ability to determinatively shape social/political outcomes. However, this essay holds out hope that by focusing on what a ruler can control — their judgment — as the site of political accountability, rulers will be simultaneously freer to consider more imaginative political possibilities, loosed from strictly consequentialist concerns, while also being held to account for their judgments. The tragic ontological context of social life need not force the political actor to abandon either hope or accountability. Indeed, like Priam who “succeeded by locating within himself a surprising faculty for opening a passage beyond stuckness” this suggestion allows political actors to take chances according to their personal, political judgment, understanding that neither failure nor success is ultimately up to them.⁴⁷

⁴⁵ Green, 198

⁴⁶ Ibid., 197

⁴⁷ Kirsch, 7-8

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