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Review of *A Third Concept of Liberty* by Samuel Fleischacker

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Samuel Fleischacker: *A Third Concept of Liberty: Judgment and Freedom in Kant and Adam Smith*. Princeton: Princeton University Press 1999. xiv + 336 pages.

Fleischacker sets his rich and provocative comparative study of Kant and Smith in the conceptual framework provided by Isaiah Berlin's well-known distinction between negative and positive concepts of liberty. There are three distinguishable strands of argument and interpretation that he weaves together in order to articulate and defend the work's main philosophical claim: "that there is a real third possibility in between the notions of negative and positive liberty, combing the most attractive features of both" (p. 8). This philosophical claim then serves as the basis for an exposition of a contemporary reconstruction of "an old but little discussed tradition of liberalism" whose origin Fleischacker locates "in the series of thinkers, from Friedrich Schiller to Wilhelm von Humboldt in the eighteenth century, to Hannah Arendt in our own day, who have been inspired by Kant's *Critique of Judgment*" (p. x). This "third concept of liberty focuses on the important human skill known as 'judgment,' and it construes human freedom above all as that which enables one to judge for oneself – unlike a child, who requires others to judge for her, who requires tutelage" (p. 4).

The first argumentative strand, developed in three chapters, focuses upon Kant's notion of aesthetic judgment. Chapter 2 analyzes Kant's construal of aesthetic judgment in terms of "the harmony of the faculties." He reads this harmony in terms of an interplay between the particularizing and the generalizing tendencies of "reflective judgment." Fleischacker devotes the next two two chapters, respectively, to spelling out the implications this has for moral judgment (Chapter 3) and to proposing an account of the relationship between the freedom of judgment and the freedom of reason (Chapter 4). In the course of these chapters, Fleischacker enters his reading of Kant into conversation with Aristotle's notion of practical wisdom and Smith's account of moral judgment as found in the *Theory of the Moral Sentiments*. The crucial claim that emerges from this first strand of argument is that the capacity for judgment is central to the individuality of persons; on this basis, Fleischacker will then proceed to argue, the "liberty" to which liberal political arrangements must give favor is first and foremost the freedom of judgment. These arrangements, moreover, must tread "a delicate line ... between structuring society so little that it fails to provide the conditions for judgment and structuring it so much that it paternally squelches judgment itself" (p. 87).

The second strand of argument develops from an analysis of Smith's account of political economy, for which Fleischacker uses the *Wealth of Nations* as the focal text. The three chapters devoted to a close reading of this text are preceded by one on "Proper Pleasures." This discussion functions to counter typical modern utilitarian "value-free" definitions of pleasure by defending the earlier view that there are better and worse kinds of pleasure. Fleischacker constructs this defense by using Aristotle and Mill as conceptual resources for "building into pleasure a role for phronesis or judgment" (p. 91). Specifically, he delimits as a "proper pleasure" one that "comes with the successful carrying out of [a specific] activity and that ... enhances our ability to carry out that activity in the future" (p. 92). These pleasures accrue to the wide array of small tasks that constitute much of everyday life – and it is the successful completion of these tasks that, in Fleischacker's view, serves both as

the training ground for judgment and the locus for an individually textured sense of life meaning. Fleischacker then goes on to claim that the difference between this kind of pleasure and those he terms "biological pleasures" and "distracting pleasures" has significant consequences for the life of a liberal polity in that it considerably widens and diversifies the range of activities in which freedom of judgment can be cultivated and exercised.

This stands as an appropriate prelude to his treatment of *The Wealth of Nations* in Chapters 6–8 inasmuch as Fleischacker believes that "better than anyone else ... Adam Smith has described the politics that the freedom of judgment requires" (p. 120). He disputes the standard interpretations that see efficiency as the controlling concept for Smith's advocacy of a politics that would leave people alone in matters of economic choice. Instead, he proposes a reading that brings Smith's normative moral concerns to the fore, concerns that, on Fleischacker's reading, are aligned with an Aristotelian construal of *phronesis* but put to use in a way that departs from Aristotle by being non-teleological and egalitarian. By placing a close analysis of Smith's use of the terminology of judgment in the context of his affinities and differences with Hume and Hutcheson, Fleischacker reaches a conclusion that recasts the role that Smith has frequently taken to give self-interest: "What concerns Smith is how to get interest to motivate good rather than bad judgment. But if so, 'judgment' is exactly as important a theme in [the *The Wealth of Nations*] as self-interest has been taken to be." (p. 138) The treatment of the *Wealth of Nations* then proceeds to a discussion of the role of played by notions of virtue and independence (Chapter 7) and egalitarianism (Chapter 8). In each case, Fleischacker gives an account that gently but firmly dismantles an image of Smith as patron of an unbridled laissez-faire market place for a corporate capitalism energized by a dynamic of self-interest that would be difficult to distinguish from pure selfishness. Thus, Fleischacker's analysis of the well known passage in which Smith observes that it "is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest" (*Wealth of Nations* I.ii.2) concludes that "instead of giving us an almost Ayn Randian paean to self-love, we may now see this famous passage as focusing on our capacity to be *other-directed*" (p. 155). Similarly, he takes Smith's understanding of "wealth" to be other than merely a quantitative measure of commodities – with the results that (1) a Smithian political economy has as much a moral as an economic goal: "... to enable *each* person in a society, as far as this is possible, to attain independence" (p. 182) and (2) "a society is not wealthy, no matter how much it produces, if its poorest people are badly off" (p. 164). Even as he agrees with part of the standard view that Smith advocates a laissez-faire economics – viz., that governments do not intervene in the workings of markets in order to redistribute wealth – he does not take this to imply that Smith is "laissez-faire about the institutions enabling [people] to develop judgment in the first place" (p. 120). Fleischacker argues that Smith's views suggest, instead that "insofar as necessary ... governments should insure that people are equally provided with the conditions for independence" (p. 182).

Utilizing the resources developed in his re-reading of Kant and Smith, Fleischacker then deploys, in Chapters 9 through 11, the third main strand of his argument. This consists in linking Kant and Smith into a liberalism for contemporary politics that is offered as an alternative to the Rawlsian and the Habermasian reconstruc-

tions of Kant that have dominated much recent discussion. At the outset, he articulates two main ways in which this version of Kantian politics will differ in its concrete outcomes from the other two: "(1) in general, it will be more concerned with insuring that ordinary citizens can make their own daily decisions than with what principles guide society as a whole, and (2) specifically, it will favor market economics over centrally organized ones for moral rather than merely pragmatic reasons." (p. 184) The larger conceptual crux that leads to these differences, however, lies in whether one reads Kant's politics as first and foremost a politics of judgment, as Fleischacker does, or as a politics of reason, which he takes as the reading that underlies both Rawls and Habermas. The problem that Fleischacker sees with the latter reading is that "it attempts too much to settle the question of what counts as, respectively, a fair society [Rawls] and a fair conversation [Habermas] in advance of the actual histories in which actual societies and conversations find themselves situated" (p. 210). In terms of the analysis of judgment proposed in the first argumentative strand, "reason cannot get a grip on such [political] specifics except by means of judgment" (p. 194). Hence, a politics of reason runs the risk of emptiness because "the structure of reason cannot tell us anything, by itself, about its own concrete application to concrete matters of public policy" (p. 184). To the extent that "Kant ... recognized that there is no way to avoid the particularity of real judgments" (p. 210) his politics, so Fleischacker claims, is thus best read as a politics of judgment that aims "to make the world free for good judgment" (p. 243). While this is a doctrine that may seem "quiet" and "unexciting," Fleischacker also believes it to be "the most sensible, most decent, and the same time richest concept of liberty we can possibly find" (*ibid.*).

This skeletal account of the movement of Fleischacker's arguments cannot do justice to the full range of issues and texts that he engages in each strand – for instance his judicious assessment of some of the issues involved in the debates between communitarianism and individualism, his arguments for finessing the need for articulating a comprehensive concept of the good life, or his analysis of the bearing of talent, industry and luck on an egalitarianism founded on Kantian principles. This skeletal account also does not capture the extent to which this work is, in a quite positive sense, provocative – no matter how much one may agree or disagree either with the main thrust of its arguments or with the particulars marshaled in their support, one needs to do so with the same quality of careful thoughtfulness the author has brought to bear in constructing them. Fleischacker is well aware that there are significant issues at stake in the "battle over Kant's mantle" (p. 213) in which different forms of Kantian liberalism – including the one he presents – contend. One of the strengths of the interpretation he advocates in this work is that, by reading Kant through a Smithian optic, it brings into clearer focus the empirically concrete elements within which Kant frames his account of human society and its politics. One may, of course, legitimately dispute Fleischacker's assessment of the role those elements can and should appropriately play in contemporary appropriations of Kant's politics – but, intriguingly, it would seem that the resolution of that kind of dispute will itself have to involve the exercise of judgment.

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