
A Reply

Joel F. Handler

Some of the critics responding to my presidential address to the Law and Society Association want to know where I stand. That's a fair question. As I stated, we tell stories and rewrite histories for purposes. I thought my views were evident, but, on reflection, I think I was too quick, too cavalier, about future directions.

My goal is for progressive people to develop a theory of political economy that will address the problems of redistribution and discrimination. The theory has to be credible; it has to command sufficient political support if large numbers of people are to live fully as human beings. I need hardly remind this audience that this now seems a truly daunting task.

My approach is American-style pragmatism, as outlined in the address—contextual, trial and error, see what works. Pragmatists (as I understand them) are willing to use science, structural analysis, community, language, context, politics, and ethics. They believe in the creative powers of human intelligence, in progressive emancipatory, democratic goals. Pragmatists are willing to employ general principles, hypotheses, systematic thought, evidence, and inferences as long as they are useful. The test is what works. It is strange to say that this is asking people to believe in false Gods (Winter). “Meta-narrative” was an unfortunate choice of words—it sends too many people into orbit. How about “large narratives”—as Fraser and Nicolson (1988) use the term?¹

Now, how does such pragmatism differ from postmodernism? As readers who have gotten this far are aware, this is not an easy question to answer, especially since many postmodern-

References to the commentaries in this issue on my presidential address include page numbers where relevant. For other references cited here, see the References listed at the end of my address on pp. 28–31.

¹ Perhaps this answers some of McCann's concerns about whether I want to reduce “concrete persons to stable, mutually exclusive class or race or gender identities,” as well as my views on hegemony and power (p. 736).

ists borrow heavily from American pragmatism. Since the transformative politics that I am interested in involves a theory of political economy, I tried to discuss those aspects of postmodernism that seemed to be relevant to this issue. A credible theory of political economy requires structural analysis (how economies, politics, societies work) as well as collective action, or social mobilization. I started with postmodernism's theory of subversion or deconstruction because I believe that this theory is what is truly distinctive about postmodernism.² My method was descriptive; I tried to select authors who were both advocates and prominent. The method might be viewed as somewhat of a weasel; I did pick and choose. Winter questions whether I got this part right. I think here the reader has to read the cited works and make her own decision.³

But, in any event, my purpose was to see what postmodernists had to say about politics and law. Again, I tried to rely on the canon, but I also looked to see how postmodern political and legal theorists *applied* their ideas in stories of protest from below ("*performativity*"?) and how the "new" social movements performed. Here, I argue that there was a major difference with pragmatism, which I attributed to deconstruction politics. Pragmatism is willing to use science and structural analysis. It emphasizes collective experiences. It has a theory of human agency, as well as a vision of the good society. Because I believe that key elements of pragmatism are necessary for constructing a credible theory of redistribution and antidiscrimination, I do not think that postmodern politics is useful as transformative politics.⁴ In my conclusion I speculated on the attraction of deconstruction politics.

Now, to try to clear up some misconceptions. I start with protest from below, then discuss social movements, and conclude with the challenge of larger narratives.

Ewick's defense of the postmodern stories is twofold: (1) Because of the dispersion of power in the post-Fordist world (Foucault), the focus *has to be* on the smallish, individual acts rather than on collective protest. That is, we have no choice about writing about power. "Perhaps, what makes these contemporary stories so sad is not that we *write* them but that people are actually *living* them" (p. 757, emphasis original). And (2) everyday practices of resistance can lead to, in fact are, the building blocks of collective resistance. "[I]f we are to under-

² Perhaps a more accurate term would have been "poststructuralism."

³ For example, Winter says that my statements that "subversion from 'within' usually means subversion from 'below'" is "absolutely staggering." I didn't make this up. See my discussion of Santos (1991) (p. 705) and Aronowitz (1988) (p. 701).

⁴ Winter: "The perturbations of postmodernism are uniquely destabilizing to the self and its most cherished aspirations, which include all forms of normative coherence with no special exemption for transformative politics" (p. 98).

stand social change, either the incremental or revolutionary, we must begin by examining 'where people are at' " (p. 761). Or, as McCann says, "After all, one must resist the terms of the status quo before one can challenge it" (p. 741).

The assumption behind the first point is quite questionable, both theoretically and empirically. In what sense is power more or less dispersed today for the purposes of collective resistance? During the French Revolution, there were large numbers of localized attacks. The same with the American Revolution. How centralized was Czarist Russia? There is even question about the degree of centralization of that most centralized state, China. Social movements construct centralized symbols that focus energies and attacks. Surely, these symbols are available today. In fact, one could argue that it is perhaps easier to mount social movements with modern methods of communications—for example, the use of fax machines by the students at Tienamen Square.

Ewick seems to think that material conditions somehow constrain in the direction of the postmodern view. I don't believe that this is true. We construct our interpretation of the world. Foucault is neither right nor wrong. He sees the dispersion of power. Others see the connecting network of global capitalism and the rising hegemony of Liberal Capitalism. We make choices about what we want to see and describe—which leads to the second point, the genealogy of protest.

I don't think I disagree with Ewick or McCann's analysis of the dialectic between individual acts and collective behavior. It is a tricky question as to when people come to believe that they can fight city hall. It is also a very open question as to when social movements take hold, when certain ideas seize the historical moment. But I am talking about the *scholars* of resistance—what choices *they* are making. The stories of Genovese (1972), Stack (1974), Piven and Cloward (1977), Fraser (1989, 1990), Bell (1987, 1992), and Williams (1987, 1991) also included accounts of *individual* acts of resistance—shirking, gaming, resisting the bureaucracy, suffering as victims. But these authors chose to transcend individual experiences and talked about collective experiences. In the contemporary stories, Millie Simpson and Mrs. G., as we know, belonged to churches (Ewick & Silbey 1992; White 1990). Sarat's welfare recipients lived in communities. Yet, the contemporary authors *chose* not to inquire into their collective activities. They focus on one tiny corner of their lives. These individual acts of resistance may or may not be the building blocks of collective resistance, but, with the exception of Ewick's second Ms. Simpson, there is no discussion, which is very different from Fraser, Bell, and Williams. What accounts for the difference? I agree with McCann

and with Calavita and Seron—there must be conceptual and empirical links with larger, structural issues.

This brings me to the second topic—the new social movements. I noted that there is much dispute about how new the “new” social movements in fact are. The defining characteristics that I use were not only the usual litanies of “antis”—bureaucratic, state, materialistic—but also their rejection of large narratives, of structural analysis and politics, of modernity’s dominant rationality in favor of social change arising out of small-scale, emancipatory practices. The postmodern state is minimalist because it is only in the proliferation of small-scale spaces that extensive citizen participation can take place in free egalitarian societies. I relied on two sources—the sympathetic and prominent advocates as well as the more prominent critics.

I think that this definition of “new” answers many of McCann’s questions. A great many contemporary movements are not postmodern—in *this sense*. They seek to establish different values; they operate at various levels, including very local levels; they have made some efforts at crossing traditional class and race lines. But this is true of practically all social movements that I can think of. What are social movements if not for a change in values? They often start with small networks of organizations. And all but the most narrow, sectarian groups seek allies if they want to succeed. The difference is that most of the movements that McCann is talking about view institutional politics in nonpostmodern terms. Depending on the situation, they seek changes in legislation, administrative rules and practices, or court cases, or decentralized local control, or the defeat of Supreme Court nominees, or the election of political candidates. I didn’t think I was talking about the Sierra Club or the Wilderness Society or Emily’s List or the Equal Pay movement or the National Organization of Women. Yes, they are seeking transformative values, but postmodern? No.

Aspects of pragmatism as well as postmodernism are parts of our everyday culture, at least for many of us. We are much more aware of diversity, of the social construction of reality, the many faces of power, the importance of context, and the contingency of human efforts. In the struggle to search for transformative politics, no one is talking essentialism or foundationalism or any of the other kinds of silencing accusations. At the same time, I do believe that there are core concepts of human nature or human capacities that we believe in. It makes no sense to talk about a radical, plural democracy, or small-scale egalitarian communities, or transformative dialogue about democratic equivalencies, or individual liberty as relational, collectively exercised, recognizing the rights of others, unless we feel that, somehow, when people are free from oppressive structures, they can and will listen and speak. Post-

modernists say that they believe in the humane values of the Enlightenment, and I believe them because I don't know how it is possible to conceive of the postmodern project of social interaction without such a belief.⁵

Winter says, "If . . . postmoderns affirm [the human values of the Enlightenment], we do so because we understand those values as priceless human constructions that are made real only by our ability to live them" (p. 805). Where do these "priceless human constructions" come from? Where does the "ability to live them" come from? How does the decentered subject respond to the necessarily ambivalent context to move in the postmodern direction? As my concluding quote from Cornel West states, pragmatists hold the same beliefs about human capacities. No one believes that these qualities are foreordained; certainly the historical record would disabuse us of such notions. But where does the initial conception come from? Imagine Winter making his statement to three people in a room: Thomas Jefferson, Thomas Hobbes, and Sigmund Freud. Jefferson would say, "Right on"; Hobbes, "You've got to be kidding"; Freud, "Well, shall we begin?" This is what I mean when I say that postmoderns have a conception of human nature that transcends context. Hobbes wins if we vote for context. Postmoderns are deeply humanistic.

My point, however, is not to debate the ontology of human agency. My point is that we must begin. Winter accuses me of being alternatively nostalgic, Tinker Bell, and afraid of the uncertainty of the decentered self. I am afraid, but not of postmodern politics, which I believe is going nowhere. Rather, my concerns are with spreading poverty, racism, the weakening position of women, homophobia, and ethnic, nationalistic murder. Tinker Bell? The belief in fairy tales? Is the whole world except for posties hooked on Mother Goose? Instead of bells, I hear the solid, massed marching bands of capitalism, religious fundamentalism, and ethnic nationalism, rather than the cacophony of deconstructive reflexivity.

Not to worry, according to Winter. He says that "progressives ought to be *glad* that the opposition is still playing the game as if it were governed by a meta-narrative. It may just be the best prescription for failure" (p. 808, emphasis original). He points to the resistance of capitalism in Eastern Europe and the recent U.S. presidential election. The resistance in Eastern Europe, as I read the papers, is from Stalinist thugs. In the former Czechoslovakia, Vaclav Havel is out; the Czechs are staunch free marketeers; the Slovak prime minister has seized the media. The recent election in Romania? One could go on.

⁵ Reread my note 2 where Hassan quotes William James. Peter Dews (1987:221-22) argues that both Lyotard and Foucault eventually converged (some-what) with Habermas.

Bill Clinton and his pursuit of Bush Democrats? Give me a break. These are hardly moves toward the postmodern radical, plural democracy.⁶ Yet, Winter says these developments “at least open political opportunities” (p. 808). But that is all that postmodern politics ever says. Now, it is true that not much else is being said on the Left either (although some are trying). But the question I raise is whether postmodern deconstructive politics is inherently disabling. I am still continuing my search, both here and abroad, for a discussion of Unger’s political economy.

I use the authors of the 1960s and 1970s as well as some contemporary feminists and critical race theorists, to illustrate the continuity of the tradition of attempting to connect stories of individual acts of resistance to larger meanings. The hoped-for solutions of 30 years ago will not work tomorrow. Marx is dead. While I don’t regard the disappearance of the values of socialism with joy, we must start the task of building a progressive political agenda.

Reference

Dews, Peter (1987) *Logics of Disintegration: Post-structural Thought and the Claims of Critical Theory*. New York: Verso.

⁶ In response to Winter’s note 23, I am hardly dismissive of Clinton’s election. I am more than delighted, especially in view of the way presidential elections have been going. I also think that Clinton’s strategy of moving the Democratic party center stage was correct, at least in 1992. My question, though, is what has this election to do with postmodernism, especially since Winter claims that the failure of the new social movements is due to the “inadequacy of an outdated conception of politics that brackets the problem of the subject. Transformative politics cannot possibly be effective if the agents upon whom it depends continue to be governed and defined by the very social contexts they are trying to transform” (p. 812).