“The fine balance: Burke on America in India”

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A. Introduction: or, which Burke?

I recently stumbled upon George McGovern’s acceptance speech from the 1972 Democratic Convention. It’s still an excellent speech, in significant parts interchangeable with speeches that are given and should be given today. Near his climax, he tells us, “And this is the time to stand for those things that are close to the American spirit. We are not content with things as they are. We reject the view of those who say, ‘America — love it or leave it.’ We reply, ‘Let us change it so we may love it the more.’”¹ Taken in isolation, McGovern gives us a pretty good articulation of a certain kind of elusive fine balance in politics: a commitment to progress and a recognition of the value of what we have, and of what has come from what has come before us. This paper is about that fine balance.

Edmund Burke is most well-known for his writings on the French Revolution. But in recent years greater attention has fortunately been paid to his wide variety of other writings and speeches. Among the richest are those on America and India - especially those of the 1770s and 1780s. I first became interested in them as a counterweight to the traditional Burke of the Reflections, arguing for the holism of the social order and form of life and cautioning against risky attempts to change them precipitously. I wanted to understand how to reconcile that Burke of the Reflections with the Burke who, quite radically, took up the causes of the American “colonies” (before and after the the Declaration of Independence) and of India. Burke waged extended campaigns against English policies abroad: for their counterproductive policies of force toward America, unimaginatively remaining harsh and stubborn. In his critiques of British
policy in India, he singled out their bad faith, unjust treatment, and despotism. He focused his attention, too, on Warren Hastings, the governor of the East India Company from 1773-1785 whom Burke spent years campaigning to recall and, eventually, impeach for what we would now call war crimes. Throughout, he criticized, unrelentingly, and with biting rhetoric that pulled no punches, his own country for acting not only wrongly (more on what I mean by “wrong” soon) and self-destructively. This self-destructive behavior damaged both England’s practical self-interest and its identity and values as a nation and a people. Quite evidently, these views stand in contrast to Burke’s more-well known attempts to establish a firewall in the Channel so that the dangerous Revolutionary fires would not spread to Britain. On the face of things, on one side, he wants to make England more responsive to right and thoroughly change both policies and institutions (colonial, imperial). And on the second side, he wants to preserve England and its institutions against dangerous change.

We might call this “Das Edmund Burke Problem”: how to reconcile at-first-seemingly and, perhaps more importantly, historically-seen-as-irreconcilable, writings. Though the fault lines of this Problem are not the same as Das Adam Smith Problem (which is principally about self-regarding in the Wealth of Nations conflicting with other-regarding in the Theory of Moral Sentiments), until recently perhaps the dominant way of dealing with this (if only passively) has been to mostly ignore the non-Revolutionary writings and focus mainly on the Reflections. It is only by doing so - even today - that writers like Corey Robin can present Burke as an arch-conservative. Sometimes a biographical disjunction is proposed, whereby Burke’s psychology (either maturing or degenerating into monomania, depending on the perspective) changed.

I initially came to Burke through this Wittgensteinian lens, seeing in it a way to help me understand the story of the origins of liberalism in the 18th-century. With this lens in hand, I have sought an understanding of what it means to take the holistic nature of society and politics seriously - its interdependence, its organic development and organic complexity, its epistemological humility and resistance to engineering, and its inherent incompatibility with a single, rationalist/universalist method of politics. Burke has much show us about that kind of Wittgensteinian politics. But in that endeavor it is easy and tempting to take those Wittgensteinian aspects of Burke and read him as a champion of conservatism, especially in its preservationist variety. This is in fact what is usually done with various attempts to construct a Wittgensteinian politics. But no complete picture of Burke can be satisfied with such a crude likeness.

I am by no means the first to read Burke as someone who defies our left/right categories. Thanks to a bounty of recent work, a fuller picture of Burke (and the tools for such a picture) are becoming available, most notably with the biographies by Richard Bourke and David Bromwich. Recent work by Uday Mehta and Jennifer
Pitts, among others, also helps bring forth this Burke by paying proper attention to his
writings on British policy abroad, especially on India.8 But there is no simple way of
reconciling Burke’s different views, theories, policies, and statements, spanning half a
century, dozens of volumes, and shaped and constrained by his position as an MP and
his participation in practical politics. So though I am not the first to tread on some of
this ground, my aim is to contribute to a view of Burke which sees in him a potent
synthesis of what are today often conflicting political impulses, especially with regard to
change, progress, and moral responsibility in politics.

While doing so, I hope to make a case for reading Burke as a member of a family of
liberal political thinkers of the 18th-century that also includes Hume and Smith. What
unites the family is what can be understood as a forward-looking Wittgensteinian
understanding of the nature of thought and community, as irreducibly embedded in a
shared form of life. Each member of this family (as in real families) is different, and
contributes something different: in broad strokes, Hume gives us an origin story about
the nature of value, community, and political society which also forms the basis for a
picture of what makes liberal society work and continue forward successfully. Smith
gives us a moral, social, and political psychology that further defines the mechanisms of
thought and value that enable liberal society to work. And Burke shows us, in quite a
different manner, how to find the balance between progress and prudence, between
aspiring to higher standards, and dealing with finitude and circumstances as they are.

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B. Crawling on earth

In 1987, Jeremy Waldron edited a collection of what he took as the classical treatments
(Bentham, Burke, and Marx) of the case against human rights, called Nonsense upon
Stilts — taking the title from an evocative phrase of Bentham’s. He describes these
critiques of rights as grounded in “utilitarian [Bentham], collectivist [Marx], and
relativist [Burke] sentiments.”9 Margin-quibbles aside, we can grant this as a reasonable
summary. And as with such previous (and critical) treatments of Burke like that of JGA
Pocock or Alasdair MacIntyre, it is most telling that Waldron’s Burke is here only the
Burke of the Reflections. The “trouble with Burke” is that his “relativism” (I prefer
“situationalism,” even “contextualism”) can never take him as far as he needs to go. He
can’t get all of what he needs, for instance, in arguing for the disastrous nature of
British policies in America, solely from his claims about the nature of the English-
constitution-transplanted to the Colonies, or about the nature of the uniquely
American “constitution” that has developed, with its special spirit of liberty (for
Tocquevilllean reasons before Tocqueville). Nor can he get what he needs, despite
passion and insight, from his arguments about the special nature of Indian civilization
which England is in no way equipped to govern.
In writing about the British empire, Burke repeatedly relies on things which walk and talk a lot like appeals to overriding principles of right and wrong - principles of justice, universal human values, and even - at times - what we later call “human rights.” Indeed, at times, he even uses the term “rights” without qualification, though his kind of “rights-talk” is found with various vocabularies. To give but a few of many examples of Burke in this vein:

1. “Liberty, if I understand it at all, is a general principle, and the clear right of all the subjects within the realm, or of none. Partial freedom seems to me a most invidious mode of slavery.”

2. “The poorest being that crawls on earth, contending to save itself from injustice and oppression, is an object respectable in the eyes of God and man.”

3. “The rights of men, that is to say, the natural rights of mankind, are indeed sacred things: and if any public measure is proved mischievously to affect them, the objection out to be fatal to that measure…formal recognition, by the sovereign power, of an original right in the subject, can never be subverted without” subverting the very government and society themselves.

Burke does in fact concede the importance and necessity of rights and asks us to consider them in various contexts: but unlike most rights-treatments, he just doesn’t want to grant them the supervenience that to some is what makes a right a right. He writes, on the issue of the humility he feels about the responsibility of England for the Colonies,

having some abstract right in my favor would not put me much at my ease in passing sentence; unless I could be sure, that there were no rights which, in their exercise under certain circumstances, were not the most odious of all wrongs, and the most vexatious of all injustice.

Presumably the rights-defender would wish those “most odious and vexatious wrongs and injustices” to be precisely those things that rights protect; what else would rights be for? But Burke is also certainly correct that it is of the nature of such rules (like laws) that they can never imagine all possibilities that will come under their purview, and those unimagined borderline cases that strain against the application of a rule are the rub.

I can’t help but seeing submerged in this marshland of Burke’s views on rights an alternate descendant of the same sort of impulse that begets the rights-talk we are used to: not the lawgiving spirit of a certain kind of philosopher (some may take issue, but I think of Rawls here), which sees rules and codes as salvation, as the only way to safeguard what needs safeguarding and the only way to find true justification and certainty. Rather, the sympathetic spirit of one familiar with the nature of
responsibility, who truly wants to safeguard against injustice, and knows that to do so one must be able to judge a case without blind allegiance to a previously adopted rule. Of course, the response is then: well, but how to judge in that case? We can’t simply empower “judges” to decide as they see fit and leave them to it. I can’t give a detailed answer here, but I can at least say that the example Burke sets as a statesman - in practical politics and political theory - across his career is an answer of a sort - if not a traditional philosophical one.

Supposedly, the rights-proponent is defending the individual, sometimes against offenses by individuals but often by those of collectives. Part of Burke’s humility and appreciation with respect to forms of life takes the form of, sometimes, a certain privileging of the collective over the individual. In the Reflections, Burke writes that “The effect of liberty to individuals is that they do what they please: we ought to see what it will please them to do, before we risk congratulations which may soon be turned into complaints. Prudence would dictate this in the case of separate, insulated private men, but liberty, when men act in bodies, is power. Considerate people, before they declare themselves, will observe the use which is made of power.”14 Burke is calling attention to a qualitative difference between groups and individuals, and between the way concepts like liberty work differently for the two. (Today, one might say is that he is pointing out slippage.) A few years earlier and with respect to a quite different matter, Burke also draws a similar line: “in a thousand cases for one it would be far less mischievous to the public, and full as little dishonorable to themselves, to be polluted with direct bribery, than thus to become a standing auxiliary to the oppression, usury, and peculation of multitudes.”15

This distinction between the liberty of individuals and the liberty of collectives suggests a discontinuity, or at least a separation, between the private sphere and the political sphere. Collective power put to the wrong ends - whether by Hastings, the East India Company, George III (by proxy) in India, radicals in the English Civil War, or French Revolutionaries, is the danger Burke calls attention to. I would even put forth that this sort of negative liberty (from the outsized forces of over-energetic collectives) is an essential part of what makes Burke a liberal - which I define minimally as valuing the protection of the individual's freedom as an end in itself, even if not an overriding (or, supervening) end in itself.

C1. Sympathy

In his introduction to a recent collection on the history of the concept of sympathy, Eric Schliesser16 puts together several useful typologies of the concept. In particular, he identifies what he calls the “likeness principle” - “a metaphysical background commitment that is presupposed in nearly all applications of the concept…[which states
that] the very possibility of sympathy presupposes that it takes place among things/events/features that are in one sense or another alike, often within a single being/unity/organism.” Stated somewhat elliptically, I take it that this captures the fact that we can feel sympathy for other people, or even for animals - but it doesn’t make much sense to say that we feel sympathy for a blanket or a prune (except, perhaps, only metaphorically). For our purposes at the moment, I think this does capture the unstated assumption behind direct appeals of sympathy, or even merely some form of caring (as, for instance, Burke cares for the well-being of Indians and Americans). This unstated assumption is that such others matter, and matter at least in part by virtue of being like us in a fundamental way. This would seem to point to the possibility of sympathy functioning successfully at the great distances necessary to span empire - with Burke himself as an example of this. But Burke himself points out that it is difficult to care properly about the effects on, or sufferings of, unseen peoples who are far away, especially if they are different and strange (as in the case of the Indians). This recalls Smith’s classic concession in the TMS that sympathy functions most fully and successfully in tight networks of direct connection. It can function, but less well and with greater difficulty, across great distances. We might call both Burke and Smith’s attitude realist in the pragmatic sense I have mentioned; they are accommodating their accounts to various forms of human finitude and imperfection.

Two other aspects of Schliesser’s typology I find helpful: first, he distinguishes between spatial (more common) and temporal sympathy: sympathy between those physically distant (e.g. a member of parliament and troublesome Colonists) and those temporally distant (e.g. a historian and his subject). I would argue that this leaves out the “direct contact” version of sympathy I just mentioned which is archetypal for Smith. In some sense, even sympathy between two individuals in a bear hug bridges a distance, the noumenal distance between their minds. But such a view collapses, I think, the important quantitative and qualitative difference between sympathy with those whom we are linked in proximity (not to put too fine a point on it: for instance, breathing the same air, responding to the same physical bits at the same time) and sympathy with those who exist only notionally. For, of course, it is precisely this latter category of “notional beings” that concepts like human rights attempt to address, in part by correcting for the inherent failings of human reasoning to take notional beings as seriously as proximate beings. Schliesser points out that “temporal sympathy” “tends to piggyback on other mechanisms (for example, the imagination).” Indeed - but I would add that “spatial” sympathy and direct sympathy do piggyback, as well, if to different degrees of success.

Schliesser’s typology contains a second point worth bringing to the table: “Sympathy is, in principle, bidirectional even if the elements or agents that enter into a sympathetic relationship vary in their power to do so...I mean to capture the fact that
sympathy is not just introduced to capture distant action but generally meant to capture *mutual* action or at least the capacity for coeffectability.”21 This capacity for coeffectability, even in an asymmetrical relationship, is precisely the relationship Burke expends so much energy bringing to attention: a government (especially an imperial one) and its subjects exist reciprocally, like interconnected parts of one body (in a metaphor Burke uses, presumably echoing Hobbes).

There is a significant history of discussion following Hegel’s introduction of the concept of “Recognition” (Anerkennung) in the *Phenomenology of Spirit*, as an alternative way of explaining the problem of sociability (the “problem” being, how can we both recognize the fact that self-interest is paramount in human minds and the fact that we care about others, individual and collective).22 In a late essay, G.E. Cohen summarizes the core of the view which follows Hegel’s *Anerkennung* to a basis for “regarding people as equals”: “This line of thinking [following through the requirements of mutual recognition] says that you treat the other as an equal as a necessary condition of your own self-realization: but only as a necessary condition, because self-realization is not achieved unless she reciprocates, in her own quit for self-realization. To be rude to a waitress is to commit the sin of demeaning your own humanity.”23 Of course without this sort of Hegelian architecture, Burke believed that a country was constituted by its self-understanding and the mutual self-understandinging (see what Hegel does to one?) that takes place in a political community24, and is essential to the proper workings of one.

**C2. Dorian Grey**

The next issue I wish to discuss is Burke’s insistence that we recognize the effect [inherently collective] political actions (on “others” outside our community and and on [minority] members of our own community) have on a society. Here again, he does not choose between pragmatic/consequentialist arguments about ineffective and counterproductive results and “principled” arguments about the kind of people one becomes when one does wrong. Burke is not writing systematic treatises with a “tree” structure of argument from first principles. He prefers a “serial” argumentative and rhetorical structure; what Amartya Sen calls “plural grounding,”25 with multiple reasons for a position that are not prioritized hierarchically nor linearly derived. Burke writes in the “Letter to the Sheriffs,”

“Those who do not wish for such a separation, would not dissolve that cement of reciprocal regard, which alone can bind together the parts of this great fabric” and “Those whose affection must be the surest hold of our government, and which is a thousand times more worth to us…”26

In his attack on the nature of empire in India, where the representatives of England are
not of England, nor are they of India - they are a separate, warped class of overly-young and exclusively male fortune-seekers who live in an artificial society that violates the natural relationship between government and people. Indians, he says, have barely ever seen

the grey head of an Englishmen. Young men (boys almost) govern there, without society, and without sympathy, with the natives. They have no more social habits with the people... [and are] Animated with all the avarice of age, and all the impetuosity of youth, [as] they roll in one after another. Burke objects to their youth and their warped priorities (mere financial gain, with none of the sacred responsibility of government). He objects to their merely passing through, “wave after wave.”

But most salient to me is their being “without society” and “without sympathy” with the Indian natives. As he says in the “Letter to the Sheriffs,” “in Great Britain the mass of the people is melted into its government”. I think he is also thinking aspirationally (another guise of overarching principles), about the way a government should be in relation to its people and the way a people should be in relation to its government. So when he charges the English in India with being “without society” and “without sympathy,” the charge runs deep: they aren’t even eligible for the proper relationship between authority and subjects. Burke also mentions the absence of the requisite sympathy between the English in England for Indians - because too little is known of this diverse and far off India - and even because the names of these suffering Indians are strange - a strangeness which short-circuits the normal operation of sympathy, betraying a sensitivity to the particulars of the operations of sympathy in government and empire.

The arrangement in India is an abomination of the fundamental relationships that constitute real political societies. In India, Burke says in a passage of the Hastings Speech worth quoting at length, we have a

State in disguise of a Merchant, a great public office in disguise of a Commonwealth...The East India Company in India is not the British Nation...The Company in India does not exist as a Nation. Nobody can go there that does not go in its Service. Therefore the English Nation in India is nothing but a seminary for the succession of Officers. They are a Nation of place-men...a Commonwealth without a people. They are a State made up wholly of magistrates. The consequence of which is that there is no people to control, to watch, to balance against the power of office. The power of office... is the sole power in the Country. There is no corrective upon in whatever. The Consequence of which is that, being a Kingdom of Magistrates, the Esprit du corps is strong in it—the spirit of the body by which they consider themselves as having a common interest, and a common interest separated both
from the Country that sent them out and from the Country in which they are; and where there is no control by persons who understand their language, who understand their manners, or can apply their conduct to the Laws of the Country. Such control does not exist in India.30

Burke presses the point that the East India Company is simply all wrong. It’s not a state, it’s not a nation. It’s in the disguise of a Commonwealth, but also in the disguise of a merchant. It’s made up only of officers, but also only magistrates. It has an esprit du corps, but of entirely the wrong sort. And, perhaps most out of whack of all, they know nothing of the people of which they are supposed to be capable of governing. We have the opposite of a government “melted into its people.” We have the opposite of a political system in any way suited to or conforming to the form of life of the society it corresponds to.

Burke also felt that the British empire in America had gone awry, was no longer suitable, and constituted a misguided form of tyranny. From 1775, he wanted Britain to cut the imperial reigns on America and leave them to be free, hoping for freely-joined, rather than imposed, commercial arrangement.31 But the political abomination in India rose to another level. Burke himself wrote, late in life, that “Our Government and our Laws are beset by two different enemies, which are sapping its foundation, Indianism, and Jacobinism…the first is the worst by far.”32 This “enemy,” that of “Indianism” an enemy of England itself - sapping its foundations.

Options from which one can quote Burke on the iniquities of empire are quite numerous. I will choose one, as a representative:

There is an unnatural infection, a pestilential taint fermenting in the constitution of society, which fever and convulsions of some kind or other must throw off; or in which the vital powers, worsted in an unequal struggle, are pushed back upon themselves, and by a reversal of their whole functions, fester to gangrene, to death; and instead of what was but just now the delight and boast of the creation, there will be cast out in the face of the sun, a bloated, putrid, noisome carcass, full of stench and poison, an offence, a horror, a lesson to the world.

In my opinion, we ought not to wait for the fruitless instruction of calamity to enquire into the abuses which bring upon us ruin in the worst of its forms, in the loss of our fame and virtue.33

Burke advocates for this reciprocal influence, an ontological imbrication between England and America and England and India. In perhaps the grandest of his American writings, the Speech on Conciliation with the Colonies, Burke pleads for England to give up the hammer and give up trying to beat the Colonies into submission. He argues for this on a variety of pragmatic and principled grounds, with the “plural grounding”
technique mentioned above. One is of special interest today: that in doing so they will destroy the very thing they are fighting to preserve:

A further objection to force is, that you impair the object by your very endeavours to preserve it. The thing you fought for is not the thing which you recover; but depreciated, sunk, wasted, and consumed in the contest.\textsuperscript{34}

This, though a potent argument, could still be part of a pragmatic realpolitik. Burke says later,

To prove that the Americans ought not to be free, we are obliged to depreciate the value of Freedom itself; and we never seem to gain a paltry advantage over them in debate, without attacking some of those principles, or deriding some of those feelings, for which our ancestors have shed their blood.\textsuperscript{35}

Burke concedes explicitly that harsh imperial tactics are legal; but they are nonetheless not only ineffective but wrong. And one of the reasons they are wrong is that they would have to be done by the English, and that the English would have to live with the consequences and with the ensuing corruption in their collective history and self-understanding.\textsuperscript{36} As mentioned above,

D. Sorcery, MacIntyre, collective identity, and incommensurability

Burke’s adventures in collective history and self-understanding are the focus of Alasdair MacIntyre’s attentions at various points. MacIntyre discusses Burke briefly in After Virtue and A Short History of Ethics, as well as a late essay (1998) on Burke and Yeats on political imagination, “Poetry as Political Philosophy.”\textsuperscript{37} In each case, his dislike for Burke is acute, and his criticisms credit Burke with launching an original sin in modern politics: seductively spinning rhetoric and collective imagination to justify the modern, liberal individualist state at the expense of a communitarian one more properly grounded in tradition. MacIntyre sees a fundamental conflict within that modern liberal state: it aims to both 1) offer a system for pursuing individual ends, 2) offer membership in a political community in which pursuing common good is the same as caring for oneself. MacIntyre sees these two faces of the state as incompatible – an incompatibility that, I imagine, needs to be resolved in a proper [for him, Hegelian] manner. But Macintyre’s Burke, through a sinister wizardry of image-making, myth-making, uses conjuring tricks to transform this incoherence into a false coherence of national political imagination.\textsuperscript{38}

One might split from MacIntyre depending on whether one thinks Burke is, with sorcery or not, moving us in a good direction or not. Regardless, his critique of Burke does make us ask, despite Burke’s admirable actions on behalf of far-flung fellow
humans, how we can get along with each other – and whether it is at all possible for an imperial relationship to provide an acceptable way of doing so. One of MacIntyre’s bedrock commitments is that different forms of life are incommensurable. Because of the distinctiveness of forms of life as ways of ordering the world and providing systems of value and thought, different forms of life and their ways of valuing will always be to some extent incommensurable. In After Virtue, he writes that any “Enlightenment project” of “constructive valid arguments which will move from premises concerning human rights to conclusions about the authority of moral rules…[is] bound to fail, because of an ineradicable discrepancy between their shared conception of moral rules and precepts on the one hand and what was shared—despite much larger divergences—in their conception of human nature on the other.”39

Now MacIntyre’s commitments to the incommensurability of value and the “interminability of public arguments”40 apply both to issues of agreement and harmony within societies and between them. Here the issue concerning us is the latter, about commensurability between the English and their far-off subjects. Jennifer Pitts accounts well for Burke’s position on the failings of sympathy and moral obligation on the part of the English, and his attempts to “rouse the moral imagination and emotional indignation”41 of the English and their “restricted moral community.”42 Burke writes that he must attempt to offer analogies “as a sort of middle term, by which India might be approximated to our understandings, and if possible to our feelings; in order to awaken something of sympathy for the unfortunate natives, of which I am afraid we are not perfectly susceptible, whilst we look at this very remote object through a false and cloudy medium.” Objecting to attempts to accuse Burke of ethnocentrism, Pitts reads this passage as “tailoring his imagery to the limitations of his audience, not proposing Europe as the unique or privileged source of universal standards.”43 I agree, Burke is not asserting a privileged perspective “tout court,” that the English viewpoint is somehow superior in an absolute sense. But Burke nonetheless recognizes that though we must try hard – at times, very hard — to transcend our particular viewpoint, A) we cannot escape the false and cloudy medium that separates us from others’ experiences and, more fundamentally, B) what it means to be a human being that is part of and a product of a form of life, because forms of life can only exist in particular forms, is that our viewpoint is irreducibly not capable of omniscience.

Thus Burke and MacIntyre share at least something on the issue of incommensurability, but they follow it to different places. MacIntyre finds a way to privilege a particular viewpoint (Aristotelian Thomism) because it is most capable of dealing with incommensurability and encompassing its “rivals,”44 Burke arrives at an attitude of epistemological humility. This is not relativism, a lack of commitments, or squishier commitments; rather, like much of what Burke offers us, it is an attitude that comes into play. MacIntyre is on to something about Burke’s activities in “the
constitutive work [for politics] for the imagination”, the difference, I see, is that Burke is not doing something cynical, false, and ultimately harmful to political life, as MacIntyre would have it. Rather, he is trying to build a middle ground between, on one side:
A) The completely unmoored-from-existing-culture-and-history rationalist-Enlightenment politics of the French Revolution, with primary allegiance only to reason, ideals and progress.
And, on the other side,
B) What we might call the peculiarly English form of politics, based in the “English Constitution,” Burke’s concept-cathexis for British collective identity, values, and institutions. Burke’s use of the “English Constitution” is often what enables him to find (or to “construct”) this middle ground - because it is constituted by both some version of actually-existing norms, history, and institutions as well as overriding values and principles.

Crucially, though, Burke is no “originalist” deriving current policy from unchanging inherited maxims. He is willing when necessary to assert the primacy of the “spirit” of the law over the “letter.” In the “Letter to the Sheriffs,” he takes issue with the proposed act allowing Britain to suspend habeas corpus, arrest Americans, transport them to England for trial and sentencing. One of his objections is that Parliament has dug up a vestigial law of Henry VIII’s from the 16th-century designed for entirely different circumstances, “before the existence or thought of any English colonies in America.” He takes this narrow-minded juridical politics to be offensive to the spirit of the English Constitution, with its “ancient, honest, juridical principles, and institutions of England.” Slightly later in the same “Letter,” he continues this attack on “juridism”;

Lawyers, I know, cannot make the distinction, for which I contend; because they have their strict rule to go by. But legislators ought to do what lawyers cannot; for they have no other rules to bind them, but the great principles of reason and equity, and the general sense of mankind. These they are bound to obey and follow; and rather to enlarge and enlighten law by the liberality of legislative reason, than to fetter and bind their higher capacity by the narrow constructions of subordinate artificial justice.

Strict rule-following and obedience to law is a trap of limited moral and political imagination which will not lead to the defense of rights, the operations of sympathy and respect for all “God’s Creatures.” The route lies through more intangible things, “the great principles of reason and equity, and the general sense of mankind.” These can’t be chartered into lists of Rights or mandated by acts of Parliament. A general sense of mankind, like common sense, requires deeper roots.
Conclusion. A brief return of the baton to Wittgenstein

Uday Mehta, ploughing similar ground, rightly puts forward passages from Burke on the importance of sympathy for others and the relation to sympathy in its various forms and a critique of empire.49 His metaphor of choice is that of the *alloy* and in its active verb form, *alloying*; that is, “the deployment of a moral imagination, which alloyed self-understanding and sympathy.”50 But the picture of Burke he develops relies on a peculiar form of the concept of “psychology,” as in “Burke’s commitment to the idea that political and moral theories were only as credible as the psychological account that undergirded them. The normative force of history and location stems from their psychological centrality to identity formation,” or, “for Burke, history and place have the same psychological valence.”51 It is not clear what precisely Mehta means by “psychology” here, or why that is his term of choice, but it seems designed to set up a contrast between the given and the chosen. The force of the given – which comes from psychology (fixed nature), history (inheritance), and place (particularity) comes up against the force of the freely-chosen (with which Mehta associates will and reason). But emphasizing “psychology” here, as well as reifying the dichotomy between reason and the given, misses the real lesson we can take Burke and his forefathers Hume and Smith that rationality and psychology are inseparable in the Science of Man. And this is just as much the Wittgensteinian lesson I wish to weave into this story, about the ontological penetration of a form of life: it goes *all the way down*. There is no way to get outside it, to get in someone else’s head. Wittgenstein says, “to imagine a language means to imagine a life-form [*lebensform*].” We can’t imagine some more perfect *lebensform* that allows us to transcend the finitude and particularity of our own.52 Also: “*speaking* a language is part of an activity, or of a life-form.”53 Thought and action are inseparable from the given whole, the given order.54 Political systems should be sought and protected which fit this picture; and they should be altered when they don’t.

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2 A sampling of Burke’s critique of India from the “Speech on Fox’s East India Bill” (1783), in *On Empire, Liberty, and Reform*. Ed. David Bromwich. New Haven: Yale, 2000:
1. “The wars which desolate India, originated from a most atrocious violation of public faith on our part. In the midst of profound peace…” (302).
2. “All these bargains and sales were regularly attended with the waste and havoc of the country, always by the buyer, and sometimes by the object of the sale” (300).
3. “The company never has made a treaty which they have not broken” (301).
4. “There are none [in India] who have never confided in us who have not been utterly ruined” (307).
5. “It is our protection that destroys India” – but, like a Trojan Horse of empire, posing as
friendship” (309).


4 I have found one explicit discussion of Wittgenstein and Burke juxtaposed; but it is with the understandable goal of better understanding “the nature of conservatism” for both: David Bloor, “Ludwig Wittgenstein and Edmund Burke” in *Essays on Wittgenstein and Austrian Philosophy: in honour of J.C. Nyiri*. Ed. Tamás Demeter. Amsterdam: Rodopi, 2004.

5 Richard Bourke has done invaluable work in the intellectual history of such (mis)appropriations of Burke, especially in “Edmund Burke and the Origins of Conservatism” (Forthcoming), and in articulating their inaccuracy in “Burke Was No Conservative,” *Aeon*, December 22, 2015. <https://aeon.co/essays/conservatives-can-t-claim-edmund-burke-as-one-of-their-own>. In the former, Bourke dismantles various attempts (over the centuries) to map “conservatism” (in a variety of the guises in which it has been attempted on Burke) onto Burke, or to see him as the founder of a particular version of conservatism.


11 Emphasis mine. Ibid., 52.
17 Ibid., 7.
18 What I am calling “pragmatic realism” seems compatible, with respect to a description of sympathy, with Schliesser’s description of versions of sympathy that are “‘naturalistic’ analyses of sympathy—for they can be made compatible with non miraculous mechanisms. There is, thus despite Descartes’s strictures, no necessary connection with the occult or magic when one deploys a sympathetic explanation” (Ibid., 8). At a minimum, I would agree with this description of the uses to which Hume, Smith, and Burke put sympathy: for them, it is naturalistic, regardless of whether or not on that score they must defend themselves against charges of givenness.
19 In case it is unclear why I call these notional beings: I am reminded of something my very first philosophy professor, John Perry, said: “How many of you have been to Paris? Those of you who haven’t: do you believe in Paris? Why? Do you believe in the Hoover Tower [which you saw just before coming here]? Why – you can’t see it right now? Can you be sure it is there?”
20 Ibid., 8.
21 Ibid., 9.
24 As an example of what this looks like: to mark the 799th anniversary of the Magna Carta, David Cameron published an article in the Daily Mail on what “British values” are. Echoes of Burke sound throughout:
“The values I’m talking about – a belief in freedom, tolerance of others, accepting personal and social responsibility, respecting and upholding the rule of law – are the things we should try to live by every day....Of course, people will say that these values are vital to other people in other countries. And, of course, they’re right. But what sets Britain apart are the traditions and
history that anchors them and allows them to continue to flourish and develop.

Our freedom doesn’t come from thin air. It is rooted in our parliamentary democracy and free press. Our sense of responsibility and the rule of law is attached to our courts and independent judiciary. Our belief in tolerance was won through struggle and is linked to the various churches and faith groups that have come to call Britain home.

These are the institutions that help to enforce our values, keep them in check and make sure they apply to everyone equally. And taken together, I believe this combination – our values and our respect for the history that helped deliver them and the institutions that uphold them – forms the bedrock of Britishness. …

The question is: should we actively promote this? I absolutely think we should.”

Perhaps Cameron’s British boosterism is simply anodyne politics; but his description of a rooted national identity with a history that nonetheless needs to be actively promoted, and, needs a national discussion about itself, and about its active promotion, hits my self-understanding nail on the head.

NatCen Social Research published a report on Britishness and national identity; the report was officially published shortly after Cameron’s article, but was reported widely by news outlets from April of 2014. See Alison Park, Caroline Bryson, and John Curtis. “National Identity: exploring Britishness.” British Social Attitudes 31, 2014. Also available at <http://www.bsa.natcen.ac.uk/media/38984/bsa31_national_identity.pdf>.

26 Burke, “Letter to the Sheriffs,” 153. He served as the agent for the colony of New York in Parliament for several years, and admits that he is “charged with being an American” admits his “warm affection” toward them (164). He clearly felt that too many English were entirely losing sight of the nature of the relationship between England and America, between nation and colony – just as they were in India. He highlights the mere fact of distance, and its magnitude as an indelible fault in the nature of such government, and thus of empire. On a related subject of disproportionality in scale (in matters of empire): he also recognizes the ungainliness of an ancient civilization (“a people for ages civilized and cultivated: cultivated by all the arts of polished life, whilst we were yet in the woods”) being ruled by a far more recent one, even more so when the ruling one is 1/4 its size.
27 Burke, “Speech on Fox’s,” 310.
28 Emphasis mine. Burke, “Letter to the Sheriffs,” 160. Presumably Burke sees this unity between people and government at least in part because of the democratic nature of Parliament, but I think this is more than an observation about the nature of English institutions.
29 We can also see here a good example of some of Burke’s Smithian substructure at work; for
Smith, a subject without society and without sympathy is even more of a rump; he isn’t even really a candidate for proper subjecthood or human being, and he certainly can’t be a unit in anything like a functioning economy of social and normative commerce. Furthermore, the Smithian “flag” reminds us that sympathy is no mean sentiment, nor is it something soft muddling up proper hard-nosed realist politics. Rather, it is the sine qua non of the human and of the social.

31 See Burke, “Speech on Conciliation,” 128-130.
34 Burke, “Speech on Conciliation,” 130.
35 Burke, “Speech on Conciliation with America,” 89. Also: “An Englishman is the unfittest person in the world to argue another Englishman into slavery” (Ibid., 92).
36 J.C.D. Clark even reads into the “Letter to the Sheriffs” the same spirit of thinking-forward as in the Reflections, imagining that if Burke had written a Reflections on the Revolution in America in 1775 he would have written that the danger of revolution in America was revolution in England; “Such a revolution could hardly be contained in North America: these principles, supported by a people in arms, would surely soon be communicated to Britain, and with the same catastrophic consequences” (“Edmund Burke’s Reflections on the Revolution in America (1777): or, How Did the American Revolution Relate to the French?” in An Imaginative Whig. Ed. Ian Crowe. Columbia: University of Missouri Press, 2005. 75). Clark seems to think that Burke interpreted the events in America through preoccupations like the effect on “the British soul” of oppressive tactics in the Colonies, which was the same issue that would later preoccupy him (and, eventually, history more generally).
American colonies, Ireland, France, and India
Harried, and Burke’s great melody against it.
Also in the same poem:
All [four] hated Whiggery? but what is Whiggery?
A leveling, rancorous, rational sort of mind
That never looked out of the eye of a saint
Or out of a drunkard’s eye.

What schooling had these four?
They walked the roads
Mimicking what they heard, as children mimic;
They understood that wisdom comes of beggary

Among many other things, one can find in the others’-shoeing of looking from the eyes of saints, drunkards, and beggaring, Yeats pointing to the sympathy and humility that is so essential to Burke.

38 MacIntyre, “Poetry as Political Philosophy, 162: “Burke’s images are thus designed to secure the allegiance of the imagination to certain conceptions of stable community and hierarchical order, as well as an antipathy to any kind of theoretical reflection apt to produce skepticism about the credentials of the established order.”


40 Ibid., 8.

41 Pitts, Tum to Empire, 71. Also see pp. 59-100 in general here.

42 Ibid., 65.

43 Ibid., 73.


45 MacIntyre, “Poetry as Political Philosophy,” 161.


47 Ibid.

48 Ibid., 144. This antipathy to lawyers recurs in the Reflections, when he criticizes the Assembly for containing too many lawyers, who don’t know anything about politics. It also foreshadows - as he often does - Tocqueville’s famous criticism of America for having too many lawyers and their having too much influence. It is also worth noting that Burke’s father was a solicitor and he himself began legal study though gave it up rather quickly. See, though, “Speech on Conciliation,” 84-5 where he praises the widespread study of the law in America.

49 In Mehta, “Edmund Burke on Empire, Self-Understanding, and Sympathy,” cited above.

50 Ibid., 156.

51 Ibid., 165.


54 And in the classic formulation: “What has to be accepted, the given, is—so one could say—forms of life” (Ibid., p. 192).