

## Politics and Suffering

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The liberalism of fear ... does not, to be sure, offer a *summum bonum* toward which all political agents should strive, but it certainly does begin with a *summum malum*, which all of us know and would avoid if we only could. The evil is cruelty and the fear it inspires, and the very fear of fear itself. (Judith Shklar)

Love and knowledge, so far as they were possible, led upward toward the heavens. But always pity brought me back to earth. Echoes of cries of pain reverberate in my heart. Children in famine, victims tortured by oppressors, helpless old people a burden to their sons, and the whole world of loneliness, poverty, and pain make a mockery of what human life should be. I long to alleviate this evil, but I cannot, and I too suffer. (Bertrand Russell)

### 1. Introduction

Some texts in political philosophy are inspiring and uplifting. They celebrate what human society can be at its best, what humans can be at their best. Such texts are about liberty, about community, about solidarity, about reasonableness, about non-domination, about rational communal deliberation. Such

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\* I gave an earlier version of this paper as the Mala Kamm Memorial Lecture “at” NYU (online), in April 2021. I thank the audience members there, as well as audience members at the Honk Kong ConceptLab Political Philosophy and Methodology workshop and at the Global Political Theory Workshop at Northwestern. For relevant discussions, and comments on earlier drafts, I thank Dani Attas, Pazit Ben-Nun Bloom, Avishay Ben Sasson-Gordis, Herman Cappelen, Soho Char, Israel Cohen, Hent De Vries, Max Deutsch, Lucien Ferguson, Pete Graham, Alex Horne, Frances Kamm, Richard Kraut, Sharon Krishek, Nethanel Lipshitz, Alejandra Mancilla, Matthew McKiever, Tristram McPherson, Shmulik Nili, David Plunkett, Matthieu Queloz, Rosamond Rhodes, Sam Scheffler, Mona Simion, Sharon Street, Matt Vermaire, Patrick Wu, and Bernie Yack.

texts have a role to play, I'm sure, and when they are read in this spirit – as inspiring visions of what at our best we can be – may be harmless, and perhaps even insightful. But those writing such texts, it has always seemed to me, “*dwell* on the sunny side of the street”<sup>1</sup>: Their writing is disconnected from so much that is going on in people's lives, so much that is being caused by – or at the very least not prevented by – politics. And while lofty criteria for, e.g., the legitimacy of states are interesting in their own right, in the real world it has always seemed to me wiser to settle for states and governments that cause a little less serious suffering, and – if we're lucky – that prevent some more serious suffering (let me flag here the legitimacy issue. It is going to emerge – in the last section of the paper – as an especially significant implication of my arguments here). The task of this paper is to defend the centrality of such suffering to politics, and to pursue some of the implications of this centrality.

I try to make progress on this by engaging some of Judith Shklar's work, and in particular, her rightly famous “*Liberalism of Fear*” (1989; below I refer to it as “*LF*”). Shklar is, I think, refreshingly realistic (in the everyday sense of this word, not in the somewhat technical sense it has come to have in some political theory circles<sup>2</sup>) in her view of politics, in her reduced expectations, even in her ridicule of some of the loftier parts of political philosophy. Like Shklar, I think that thinking about politics should start with a *summum malum*, not a *summum bonum*, and in this sense reject the priority of ideal over non-ideal theory<sup>3</sup>. Political philosophers – at least in the analytic tradition – have not taken this lesson sufficiently to heart, and I attempt here an argument supporting Shklar's perhaps pessimistic starting point. But Shklar was wrong, I think, in identifying the *summum malum*. She focused, as can be seen

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<sup>1</sup> I'm here generalizing from Shklar's attack on communitarians: “Taylor seems to dwell on the sunny side of the street: Montaigne without contempt, Pope without misanthropy, no Swift at all, Rousseau without his curses, Romanticism without violence, Dostoyevsky without gloom and rage, and finally, modernist authors engaged in epiphanies, among whom Beckett is not to be found.” (Shklar 1991, 106; quoted by Misra (2016)).

<sup>2</sup> For a discussion of the relations between Shklar's views and “political realism”, see, for instance, Kaufmann (2020). There will be a little more on political liberalism below.

<sup>3</sup> I address in some detail the debate over ideal and non-ideal theory in my “*Against Utopianism*” (2018), where I also distinguish different senses of the purported priority of ideal over non-ideal theory. People mean different things by “ideal theory”, and the point in the text doesn't apply to all.

from the quote I started with above, on cruelty and the fear that cruelty inspires. This, I will argue, is a mistake, for in specifying the main thing politics should be about avoiding or preventing, we shouldn't discriminate between different kinds of suffering, those due to cruelty and fear and other kinds of suffering. In this respect, I think that Russell – lumping together suffering caused by politics (that of the victims of oppressors), suffering not prevented by politics (children in famine), and perhaps less political suffering (of pain and helplessness and loneliness in general) – got things right.

In section 2, I defend something like Shklar's general pessimistic starting point. In section 3, I argue for the centrality of serious suffering (rather than Shklar's cruelty and fear). In section 4 I show how this shift from cruelty to suffering – which may seem at first as a minor, friendly amendment – has far-reaching implications in theoretical normative political philosophy. In particular, it undercuts Shklar's political caution, and her sympathies (to an extent) to a rather minimal state. In section 5 I briefly discuss possible ways of containing the political centrality of suffering, so as to allow – to an extent – political room for other ideals, perhaps even ones that are more inspiring. Section 5 shows that the far-reaching theoretical implications of section 4 may be less practically significant after all. Indeed, after taking into account the practical complexities hinted at in section 5, the position I end up with may not be that far from Shklar's. Still, even if the discussion in section 5 shows that the considerations in this paper do not call for a revolution in practical political terms, it remains true that *our way of thinking of politics* should be sensitive to the considerations here highlighted. In other words, even if the implications of this paper to politics are rather limited, the implications to political *philosophy* are not to be belittled.

Before proceeding, though, let me make two clarifications: One about the kind of suffering I will be referring to, and the other about Shklar's role in my discussion. First, then, serious suffering: I want to remain as neutral as I can about the nature of suffering. For the most part, I will assume that you know what I am talking about – suffering is the kind of thing Russell talks about, for instance, in the quote I

started from, and his examples can serve as paradigmatic examples of suffering. I will not be assuing anything by way of a philosophical theory of the nature of suffering<sup>4</sup>. But it is important for what follows that the kind of suffering that will be relevant here – the kind I refer to as *serious* suffering – is the kind of suffering that is not the material of everyday tradeoffs. Not any discomfort, or pain, or frustration amounts to serious suffering in my sense. We routinely make decisions that – explicitly or implicitly – tradeoff such discomfort and pain and frustration for other things, both in our own lives and often in the lives of loved ones. The kind of suffering I will be focusing on is life-devastating suffering, of the kind that transcends such every-day tradeoffs. I’m not going to say much more about what amounts to such serious suffering, instead partly relying on a “you know it when you see it” kind of attitude, and partly remaining neutral on the precise details. The intensity of pain plays a role here, of course. In some cases also its duration. Perhaps – I’m not sure – also significant is the extent to which the suffering episode can be “redeemed” by incorporating it in a more positive narrative. And perhaps other factors are relevant as well. Fill in the details that seem plausible to you here: This is the kind of suffering I will be referring to in the rest of this paper.

As for Shklar: This paper is not (certainly not primarily) a contribution to Shklar-scholarship, and so I want to avoid any exegetical claims. Rather, this paper’s intended contribution is in normative political philosophy. I use Shklar because I think that on some of the central issues here she is both insightful and right, and because I think that when she’s wrong her mistakes are enlightening and helpful. I hope I do not distort her views too much in what follows, but at the end of the day what matters to me is not what Shklar did or did not have in mind, or even how she is best read, but the

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<sup>4</sup> So, for instance: To what extent suffering is best understood as subjective and in what sense exactly is not something I need to take a stand on (except to say, of course, that there are facts about suffering that are objective in the sense that there’s a fact of the matter as to whether someone is suffering and to what extent; thinking or saying that one is suffering doesn’t make it so). And I am not committed to the claim that all suffering counts equally – perhaps the suffering of the punished counts for less. We don’t have to decide this here.

independent value of what can be learned from engaging Shklar's work<sup>5</sup>. Also, Shklar offers her liberalism of fear as an interpretation of liberalism, and is deeply interested in the historical sources of the liberal tradition. I don't do history, and while I think everything I proceed to say should be acceptable to liberals (and while I *am* a liberal), still I am not invested in this being *the* right understanding of the best in the liberal tradition.

## 2. Pessimism

In this section, then, I am putting to one side the distinction between different possible *summa mala*, in order to defend the choice of such a pessimistic starting point. I will mostly speak of suffering, but for now, its role will be merely that of an example of a possible *summum malum*. In the next section I defend the focus on serious suffering as opposed to Shklar's cruelty and fear.

One way to go here would be to defend the claim that not much else – besides suffering, and fear and cruelty, and pain – matters, or at least that not much else matters *politically*. This is not my way (nor is it, I think, Shklar's). *Of course* liberty matters, and autonomy, and equality, and scientific progress, and artistic excellence. Now, though it's not clear to me how to demarcate what *politically matters* in a way that excludes some things that do matter (just not politically)<sup>6</sup>, perhaps there's intuitive appeal in proclaiming some things that matter to be beyond the scope of politics – love, perhaps? Beauty? The One True Religion? Still, this kind of claim is not plausible at all when it comes to other

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<sup>5</sup> Nevertheless, it is perhaps worth noting how little attention Shklar has been getting from "my kind" of political philosophers – that is, political philosophers working in the analytic tradition, in philosophy departments (rather than in political science departments). For instance, her name appears only in six entries in *the Stanford Encyclopedia of Philosophy*. This is, no doubt, at least partly due to her style of writing, and perhaps even to her insistence that she's a political theorist, not a political philosopher (see Yack (2017, 117)). Still, I think that analytic political philosophy can benefit from engaging with at least some of Shklar's work.

<sup>6</sup> I don't believe that we can plausibly distinguish, say, between private and public reason, or between considerations that are supported by some relevantly significant overlapping consensus and those that aren't. See my "Against Public Reason" (2015).

I return to a related point – in terms of something like a consensus requirement – in the next section.

important things: Surely, liberty, autonomy, non-domination and equality matter politically if they matter at all. So it's not as if only suffering, or only some other candidate for the *summum malum*, matters politically.

Another possible way to support a pessimistic starting point for political philosophy – another way I will be avoiding – is to insist that while all these other things matter, they only matter derivatively, perhaps instrumentally, because of their (likely) effects in terms of suffering and other horrible things<sup>7</sup>. And it can't be plausibly denied that at least some of the important things already mentioned do, at least often, have such instrumental effects. But it is not plausible that the significance, say, of the value of autonomy is fully accounted for by its instrumental features, and anyway, autonomy seems to be of value, at least sometimes, even when its instrumental advantages are overshadowed by its concomitant costs<sup>8</sup>.

Assume, then, that many things matter politically, including many positive, inspiring things of the kind already mentioned. Furthermore, assume that at least some of them matter intrinsically, or anyway, not in a way that is parasitic on suffering or some other *summum-malum*-candidate mattering. Still, I now proceed to argue, in doing normative political philosophy we should by-and-large ignore all of these other values, and focus on serious suffering<sup>9</sup>. The reason, in a nutshell, is that in politics the stakes in terms of suffering are typically unbelievably high, and that when they are, such considerations tend to outweigh all others.

That the suffering-stakes in many political decisions are high cannot, I think, be credibly denied. This is true not just of humungous war-or-peace decisions, though it is clearly true of them, and they are

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<sup>7</sup> For instance, “[N]either Montaigne nor Montesquieu were at all disposed to treat social equality as a positive good. Inequality mattered insofar as it encouraged cruelty.” Shklar, “Putting Cruelty First”, (1982; below I refer to it as “PCF”) 23.

<sup>8</sup> The literature on the value of autonomy is, of course, vast. For my own contributions, see my (2017; 2020; manuscript).

<sup>9</sup> This doesn't mean that *political agents* should focus just on suffering. See section 5 below.

not as rare in politics as it is perhaps more convenient to assume. Nor is this observation restricted to the political decisions of malevolent tyrants who seek ways to torture their political opponents or oppressed minorities. A mistaken – good-faith – decision about how to cope with the outbreak of a pandemic can, as we all now know, cause tremendous suffering to those infected and their loved ones, and also of those suffering from the indirect effects of lockdowns. A run-of-the-mill incompetent mid-level regulatory decision can create – or prevent – terrible suffering of many. And so on. I am going to spare you a detailed description of cases of serious suffering caused, or facilitated, or at least not prevented by political decisions and arrangements: I believe that imagining – *really* imagining – such cases itself involves a kind of suffering<sup>10</sup>, and also that there’s something less than fully respectful in enlisting real people’s suffering just in order to make a philosophical point. But if you are not sure you are on board with my claim here – that the stakes in terms of serious suffering are often, in politics, extremely high – then this is really the thing to do: think of real suffering in the real world, reflect on how awful it is, and on how politics is involved in causing or allowing it. I will leave you to it<sup>11</sup>.

It is natural to think of many of the inspiring political goods – autonomy, non-domination, equality, communal deliberation, participation – as closely related to rights in a deontological framework. Consider autonomy again. If you think – as many do – that there is genuine value in people being, to the extent possible, the authors of their life story<sup>12</sup>, and if you think that this is also an

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<sup>10</sup> Tom Nagel (1970, 11, fn 1) seems to agree with Hume when he says “Because [Hume] holds that to imagine the feeling or sensation of another is to have a faint copy of that feeling oneself; hence the imagination of the pain of others will itself be painful”. And in a discussion many years ago I heard Nagel explain that this is why he doesn’t like to engage in some of moral philosophy’s characteristically painful thought experiments.

<sup>11</sup> In this paper I do not discuss distributive questions applying to serious suffering. Of course, these too may be politically relevant, and when they are, other considerations – distributive ones – will have to be taken into account. But such consideration cannot, I speculate, outweigh much more by way of serious suffering, if more such suffering is on the line. Indeed, I think that even given roughly equivalent serious suffering on both sides of the scale, letting other competing (non-distributive) considerations dictate decisions is already problematic, perhaps because of intuitions captured by Kamm’s (2007) “Principle of Irrelevant Goods”.

I thank Nethanel Lipschitz for relevant discussion.

<sup>12</sup> Joseph Raz’s (1986, 369) famous metaphor.

important *political* ideal, then you probably think that people also have a *right* to shape their own lives. This right entails, for instance, strong restrictions on paternalistic intervention – which typically offend against the paternalized’s autonomy even if it promotes their wellbeing; a right to autonomy may also imply duties of accommodation by the state, that is, it may ground a duty by the state to facilitate people’s autonomy (by creating or encouraging the background conditions necessary for people authoring their own life stories); and so on. And if you believe in such rights and duties, you can’t be willing to let other considerations outweigh them too easily. You must be willing, that is, to pay a price in other things for respecting such rights, and in particular, you must be willing to pay at least some price in terms of a general wellbeing or utility calculus of sorts. If you only support the right to autonomy, for instance, when respecting it promotes overall utility or wellbeing, you don’t really support a *right* to autonomy, at least not in a deontological sense<sup>13</sup>.

Still, very few contemporary deontologists – if any – are absolute deontologists. And moderate deontologists accept exception-clauses. Moderate deontologists, in other words, think that while not *any* positive balance of (say) good over bad consequences justifies the infringement of a right or its correlative deontological constraint, a *sufficiently high* such balance does. Such exception clauses, or thresholds<sup>14</sup>, are needed in order to avoid the purportedly absurd results of absolute deontology, which is why they are so popular among deontologists.

But if we’re going moderate about politically relevant rights and deontological constraints, then the high stakes in terms of suffering are back in the picture. The sheer magnitude of the expected effects in terms of serious suffering of political decisions will almost always carry us over the relevant threshold. Suppose you’re about to make a significant political decision – about war, say, or about the

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<sup>13</sup> Or, to paraphrase Ronald Dworkin, unless you think that rights sometimes trump such general promoting-the-good considerations, you fail to take rights seriously.

<sup>14</sup> See, for instance, the discussion of threshold deontology in section 4 of Alexander and Moore (2020), and the references there.

allocation of resources for funding different medical treatments, or about issuing some product safety regulations, or about some environmental issue. In all of these, your decision is likely to affect the lives – and deaths – of many. In the presence of such high stakes, rights are likely to be outweighed (almost) every single time. In the context of more abstract discussions of moderate deontology, people often say such things as that you ought not to kill an innocent person in order to save five, but you probably should kill that one person if this will save a significantly larger number (and no one knows how large it should be). But in the context of political decisions, often the number of lives on the line is *much* higher, and if we include not just, and not even primarily, deaths, but rather the suffering of all involved, the stakes, to repeat, skyrocket. Wherever exactly you place your moderate deontology thresholds, it seems safe to assume that we're way past them.

I must confess that these claims are rather speculative. It's very hard to support them – I rely here merely on what seems to me irresistibly plausible. It seems to me that anyone denying these claims must either be blind to real-world suffering, or else unreasonable in where they place the thresholds for their deontological constraints (or both). But I want to explicitly concede that it would be better to have more here by way of argument for these claims. Let me settle, then, for the following two points: First, speculativeness is symmetrical. True, the claim that the suffering-stakes in politics are *almost always* sufficiently high to get us over plausible thresholds is speculative, but so is its negation (at least seeing that, rather obviously, the suffering-stakes in politics *not too rarely* get us over such thresholds). And it's not as if it's clear that the burden of proof is on the shoulders of those defending this claim rather than on those rejecting it. So perhaps the best we can do is just go with the option that seems the more plausible one<sup>15</sup>. Second, I want to very tentatively suggest that serious suffering seems aggregable in a way that many of the relevant suffering-unrelated deontological rights are not. Suppose, for instance,

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<sup>15</sup> In section ... I revisit this point, noting that there may be an identifiable subset of political decisions to which the point in the text does not apply.

that you need to make a political decision about whether to restrict someone's freedom of expression in order to prevent some serious suffering. The more serious suffering is involved – even across different people – the more likely it is you are over the threshold of the deontological constraint against curtailing free speech. But if the threshold has been cleared, then it seems to matter little whether you need to curtail the free speech of one person or of two. If this example is representative<sup>16</sup>, then the fact that in politics the number of affected people is often large magnifies the significance of suffering more than it affects the weights of the relevant deontological considerations, making the claim that suffering almost always crowds the plate highly plausible.

What all of this means is that even if rights – to autonomy, to non-domination, participatory rights, rights having to do with political equality, and so on – are very much politically relevant, even if they apply, within a deontological framework, to political decisions, still in practical terms they almost always drop out of the political picture. They all matter, sure, but in an environment in which the stakes in terms of serious suffering are often so unbelievably high, the latter crowd the plate, and the former can safely be ignored.

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<sup>16</sup> I don't want to pretend that things are simple here. First, intuitions may differ about the example in the text, and there may be different ways of making sense of it (for instance, Patrick Wu suggested that in the freedom of speech example, perhaps the silencing effect doesn't aggregate, but the harm to autonomy does. Certainly there are other examples where such harm seems to aggregate). Second, there seem to be examples in which constraints also aggregate – as cases where more is needed in order to justify killing two innocent people than killing one. But perhaps in such cases what aggregates is not the force of the constraints exactly, but something more consequentialist in nature. Third, there are well-known worries about the aggregation of wellbeing-related considerations. Fourth, special treatment for serious suffering introduces a discontinuity into one's normative theory in ways that may give rise to the kind of problems that arise in the lives-for-headaches debate. (On the other hand, introducing such discontinuity here need not be more problematic than it is in many other contexts of sensible policy – as when one, say, decides to go for the safer car as long as it's roughly the same price as the alternative.

In general, not much about aggregation is either clear or uncontroversial. Still, the point in the text is not without intuitive force, I think.

For relevant discussion I thank Pete Graham, Frances Kamm, Daniel Viehoff, and (through the Bored, Certified Ethicists Facebook group) Antti Kauppinen, Walter Horn, Tyler John, Doug Portmore, and Ralph Wedgwood. I don't know of literature that addresses precisely this point – the seeming asymmetry between the aggregability of considerations of wellbeing and of the weight of deontological constraints, and the effect this has on threshold deontology. For instance, Horton's (2020) recent survey, which explicitly distinguishes between aggregation in axiological and purely deontic contexts, does not address this (purported) phenomenon.

So far, I put things in terms of the considerations guiding political action within a state. But I accept a similar line – indeed, more confidently – about what, if anything, justifies the existence of a coercive state to begin with<sup>17</sup>. I return to this in the final section.

As I said, this concludes the *initial* case for a pessimistic starting point. More needs to be said, though: On consequentialism (including negative consequentialism) and deontology, on the positive effects of politics, and on what Shklar addresses as the objection in terms of reductionism.

I have not, I hope it will be obvious, been assuming anything like a standard consequentialist framework. The whole point was that *even assuming* deontological rights, still when it comes to politics they are almost always outweighed, and so rendered practically irrelevant. If you find a consequentialist framework more attractive, this makes arguing for a pessimistic political starting point easier, not harder. For within such a framework, there are no deontological rights, and *of course* considerations of suffering get pride of place (though see the discussion of negative consequentialism and good consequences, in a couple of paragraphs).

If you're an absolute deontologist, though, things are different. For on absolute deontology, *no* magnitude of suffering or other bad consequences can ever justify infringement of the deontological constraints. But this won't help in our context for the following two reasons. First, absolute deontology is in general highly implausible. But let us put that to one side<sup>18</sup>. Second, deontological constraints, especially absolute ones, are typically negative in nature. They are not the uplifting material from which inspiring political ideals are constructed. Rather, they are *constraints*, they are there to guard against all the extremely negative things people sometimes do to one another: They are constraints against

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<sup>17</sup> In this respect, I think I stand with Hobbes, and I know I stand with Shklar: "... even if the theories of anarchism were less flawed, the actualities of countries in which law and government have broken down is not encouraging. Does anyone want to live in Beirut?" (LF, 36-7).

<sup>18</sup> I also think that absolute deontology is *especially* implausible when the relevant agent is the state, for reasons closely related to those discussed below regarding the doing-allowing distinction. For some relevant discussion, see Coady's (2018, 7) discussion of a point he takes from Max Weber. See also my "Intending, Foreseeing, and the State" (2007).

harming intentionally, or perhaps against humiliating, or against using others as mere means, or perhaps against cruelty (to which I shortly return, of course). At least, then, to the extent that you are looking for a way out of a pessimistic starting point for politics, absolute deontology is not for you.

Even assuming that in politics consequences crowd the plate, though, why so negative? Why give priority to the negative consequences (for instance, in terms of suffering) rather than to positive ones, or indeed to the balance of all consequences? True, politics also has – when we’re lucky – very good consequences. But we should proceed with caution here. Some of the best things politics is associated with – like significant reduction, when things go well, in hunger and severe poverty – are really primarily about the reduction of serious suffering. Many other political achievements – say, in terms of improvement on the way to gender equality – are not *only* about suffering, but are still very closely related to suffering. If the center of attention is to be diverted from suffering, then, the positive outcomes of politics must be specifiable in suffering-independent terms. And I fully acknowledge that politics has such results as well. But think again about the sheer magnitude of serious, life-devastating suffering – caused or facilitated in the bad cases, prevented in the good ones – and think how plausible it is that other things, not-suffering-related, outweigh them. To me this does not seem plausible at all. Consider the following example. On Christiano’s (e.g. 2004) influential account, the justification of democracy is ultimately grounded in an interest we all have to be publicly seen to be treated as equal. Granting Christiano literally everything he says about this interest<sup>19</sup>, it still seems to me entirely clear that often this interest will be outweighed – in an individual’s life, as well as on a social level – by considerations of serious suffering. Just think how much suffering you’d be willing to undergo, or to have your loved ones undergo, just in order to be publicly seen to be treated as equal. My point is not that the answer has to be “no suffering at all”, I am not arguing that Christiano’s favorite political value

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<sup>19</sup> Including that it is fundamental, and so in particular not grounded in anything suffering-related. For the record, I don’t think we have such a fundamental interest.

is lexically inferior to that of suffering. All I am saying is that as long as your answer to this question is remotely acceptable, almost all political decisions will involve more serious suffering than you think suffices in order to outweigh Christiano's public equality.

It's important to note that this emphasis on negative consequences – in terms of serious suffering – does not commit me to negative consequentialism, the view, roughly, according to which only negative utility counts, or at least considerations of negative utility get some priority over considerations of positive utility<sup>20</sup>. Going for a pessimistic, *summum malum*, perhaps suffering-based view in normative political philosophy does seem similar – in temperament at least – to such negative consequentialism<sup>21</sup>. But important differences remain. Everything I say in this paper is restricted both to the political context (as opposed to the moral or the practical more generally), and to serious suffering (as opposed to any negative utilities). Nothing here commits me, then, to a general conception of the good, or to the thought that negative utility always trumps positive utility. Furthermore, even restricting our attention to just serious suffering and just in the political context, I am not committed to the *summum malum* always and necessarily trumping all positive consequences. I'm merely committed to this being contingently and very often the case. These differences also mean that the kind of pessimistic starting point I am arguing for in this paper is immune to the standard objection to negative consequentialism, the one sometimes called "The World Destruction Argument"<sup>22</sup>. A negative consequentialist, in other words, may have to opt for destroying the world because this will (arguably) eliminate negative utilities (together with positive ones, that are far less important on negative consequentialism). But I can note the limited relevance of hypothetical examples about sufficiently far

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<sup>20</sup> For a recent discussion of negative consequentialism, see Knutsson (2019) and the references there.

<sup>21</sup> And perhaps Popper's own concerns in *The Open Society and Its Enemies* (1945), concerns that are often understood as putting forward negative consequentialism, are actually closer to the ones in this paper, specifically about politics.

<sup>22</sup> See Smart (1958).

possible worlds to a theory – such as mine – about what should guide real world politics, in circumstances in which serious suffering – and ways of relieving it – are common and available<sup>23</sup>.

Before concluding this section, I want to address a possible objection, or rather a possible feeling of discontent. Is this really all that we are reduced to, when thinking about politics? Nothing more inspiring than hoping for a little less serious suffering, or cruelty, or pain? Is that really it?<sup>24</sup> This kind of view, it may be thought, reduces us in such a demeaning way, “it offends those who identify politics with mankind’s most noble aspirations” (LF, 32). I find such thoughts perplexing, divorced from the real-world lives of so many of us, indeed offensive. Shklar responds well, and nothing more needs to be done here than to quote her at some length:

“There is nothing “reductive” about building a political order on the avoidance of fear and cruelty unless one begins with a contempt for physical experience.”

(LF, 32)

And Shklar’s reminder about similar complaints specifically in the American context and in the liberal tradition seems apt more generally as well:

“To those American political theorists who long for either more communal or more expansively individualistic personalities, I now offer a reminder that these are the concerns of an exceptionally privileged liberal society, and that until the

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<sup>23</sup> For making me see that I need to address the relation between my view and negative consequentialism, I thank Dave Chalmers, Sharon Krishek, Alejandra Mancilla, Liam Murphy, Sam Scheffler. ...

<sup>24</sup> A related objection starts from the observation that (despite the previous paragraph in the text) many people are willing to undertake serious suffering – certainly to risk serious suffering – for other things they find more important. But it would be too quick to think of this as strong evidence against the political dominance of suffering. First, points parallel to the ones in the text apply – many of the things for which people are willing to suffer are themselves best understood in relation to suffering (of others, for instance). Second, in some cases where people are willing to suffer for a (suffering-independent) cause, they are simply wrong in their preferences – they are willing to pay a price in something important for something much less important (if at all). Third, even if suffering need not normatively dominate personal decisions, it may still normatively dominate political decisions, precisely because of the high stakes in the latter.

institutions of primary freedom are in place these longings cannot even arise.”

(LF, 35-6).

### 3. How to Be a Pessimist, or Where Shklar is Wrong

Shklar, though, does not put *suffering* first. Rather, she puts *cruelty* first, and with it the fear it inspires<sup>25</sup>.

In this section I argue that this is a mistake, and indeed, as I will be arguing in the next section, an important one, with significant theoretical implications. I do this, first, by putting forward an initial case against discrimination between cruelty and fear on one side, and other sources and kinds of suffering on the other. I then proceed to discuss possible reasons for the specific focus on cruelty and fear, arguing that in fact they too favor putting suffering first.

#### 3.1 The Initial Case against Discrimination

Assume the hypothetical position of a social engineer. You have to design a social-political system. And suppose for now that you’ve been convinced about the need for a pessimistic starting point – that is, you are much more concerned about protecting those about to inhabit your designed social system from the worst things than you are about securing for them the best things. You’re doing non-ideal theory, of course, so you know that many things will go wrong. People in power will sometimes be

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<sup>25</sup> Or anyway, this is what she most often officially does. She nowhere, as far as I know, draws an explicit distinction between putting suffering and putting cruelty first, and in her relevant texts there are many sentences that can be easily read as focusing on suffering. So perhaps a more charitable reading of her is as just not being clear on the significance of this distinction.

For examples of Shklar seemingly emphasizing suffering, see LF (30, 32); see also “Rights in the Liberal Tradition” (1992; I’ll refer to this text as “RLT”, 32).

See also Gatta (2018, 6-7), where she attributes to Shklar a similar kind of line.

Also, Shklar’s repeated emphasis on the victim’s point of view and on the need to listen to the victims (for discussion and references see Kaufmann (2020); Misra (2016, 6-7); Yack (2017)) sits much better with an emphasis on suffering than on cruelty, or more generally with an emphasis on the effects of political action on its receiving end rather than on the nature of the exercise of agency involved. There will be more of this below.

competent and do their best, but not always, and sometimes they may actually act cruelly. Economic resources will be allocated sometimes in fair and efficient ways, but not always. And so on. Suppose you then have to choose between two institutional setups. In one, cruel conduct by some of those in power is more likely, or perhaps is simply more common. In the other, though, there's significantly more serious suffering of an arguably less political nature – perhaps because devastating diseases are less efficiently dealt with (without any ill will or cruelty), or natural disasters are not as effectively responded to. Overall, there's much less suffering in the first system, the one that includes more by way of cruelty: Perhaps because the less-political suffering outweighs the cruelty-induced suffering, or perhaps because the cruelty in the first system is not all that competent either, or for some other reason. Which design should you go for?<sup>26</sup>

Preferring a system that includes more suffering simply because it allows for less cruelty seems like a clear mistake. Cruelty ultimately matters because of its effects on the lives of real people, because of the suffering it gives rise to. This is *why* it's so important to avoid cruelty. The reason why it's important for agents not to act cruelly has to do with the effects of such cruelty on those on cruelty's receiving end, on “patients” – in terms of suffering, and perhaps in other terms as well. So accepting more suffering just in order to leave room for less cruelty amounts to the fetishistic mistake of conflating the means for the end. Compare: Accumulating financial resources is very important, of course, but it's only important because of the effects having them can have on your life and the people and things you care about. So continuing the pursuit of riches when this no longer serves those ends,

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<sup>26</sup> Perhaps you're thinking: “Oh no, philosophers with their far-fetched examples again!”

You should not. First, our question here – in this subsection – is a theoretical one, about what ultimately matters (not a practical one, about what to do, and not even the intermediate one, about what matters not necessarily ultimately). For such question, far-fetched examples are good enough. Second, examples here need not be far-fetched at all. Think, for instance, of Saddam Hussein's horrible cruelty, and how – given what has happened in Iraq since his removal from power – it may have prevented a lot of unbearable suffering (while also causing suffering, of course). Now think of a counterfactual Saddam who is virtuous, wants to minimize sufferings, but understands that ruthlessness in power is the only thing preventing horrible anarchic suffering.

indeed when doing so harms them, is objectionably fetishistic. Analogously, it is of course very important to avoid cruelty in politics (and elsewhere). But this is because of its effects on suffering, broadly understood. A willingness to accept more suffering can never be justified merely in order to allow for less cruelty.

Indeed, as long as one's starting point is broadly humanist – motivated above all else by a concern for people and how their lives are going – what directly matters is the suffering, not its causal history<sup>27</sup>. Whether it is caused by cruel abuse of power or incompetent government reaction to natural disaster, suffering is suffering, and serious, life-devastating suffering ought to be minimized. The *summum malum* from which political philosophy should start is serious suffering<sup>28</sup>.

This concludes my – straightforward and quick, but quite strong, I think – case against discriminating between different kinds of suffering. I think it suffices at least to make an egalitarian attitude towards all serious suffering the default position. The burden is now on Shklar to cite convincing reasons why, despite of the above, we should put cruelty first.

### 3.2 Reasons to Nonetheless Discriminate

In this section I critically evaluate some possible reasons to give cruelty and “its” suffering special treatment. In some of these I reconstruct such a reason from Shklar's texts and those of her commentators, and in others I speculate more freely. While I can't guarantee that there are no other arguments for a similar conclusion, I take my negative verdicts on the ones below to at least make it plausible that no such other argument is forthcoming. I do not, in this section, address the natural

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<sup>27</sup> Misra (2016, 13) attributes to Shklar, as a starting point, the recognition of the facts that people feel and fear pain, and that the powerful may oppress the powerless. I'm not sure this is *the* single legitimate point of departure (and I want to remain, let me remind you, noncommittal on exegetical questions). But the striking point in my context here is that if this is your starting point, you should focus on *all* kinds of pain and suffering (and on the effects of power, to which I return).

<sup>28</sup> It may be suffering more generally, not restricted to *human* suffering. I don't know where I stand on this.

thought that even if ultimately it's suffering that matters, still for practical purposes political agents should focus on cruelty. This kind of consideration takes central stage in section 5.

### 3.2.1 Fear

It is very clear that for Shklar at least one central feature that makes cruelty special is its relation to fear. Indeed, it is no coincidence that despite advocating putting cruelty first, she has labeled her view "The Liberalism of Fear". The reason for this focus – especially in the context of coming up with an account of liberalism – seems to be the relation between fear and freedom. As Shklar says (LF, 29): "Systematic fear is the condition that makes freedom impossible...". The thought seems to be that fear is central because it undermines freedom, and cruelty is central because it inspires fear.

I think that Shklar has an important insight about both of these relations – between cruelty and fear, and between fear and freedom. But I think she overstates both. (Also, while as a liberal I value freedom highly, I don't think of it as the only or most valuable thing, not even politically. So I am open to the possibility that other considerations sometimes defeat even what is necessary for freedom. But I won't pursue this objection here.) Systematic fear is indeed a danger to freedom. But it is not the only one, nor is it true that other problems for freedom are only such problems because of their relation to fear. Perhaps more importantly, while Shklar is clearly right about the relation between cruelty and systematic fear, she is wrong to think that this relation is unique. The fear that comes from not knowing where your next meal is coming from need not originate with cruelty (though it may, of course), and can be just as devastating and just as freedom-undermining as the fear from the cruel abuse of power by the powerful. Similarly for fear of the loss of a loved one, fear of loneliness, fear of not being loved. Cruelty does often inspire systematic, freedom-undermining fear, but so can suffering more generally<sup>29</sup>. Perhaps

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<sup>29</sup> At one point (RLT, 31) Shklar says: "The liberalism of fear takes these circumstances into account to promote at every turn policies, practices and beliefs that will diminish the political sources of fear ..." Here, she seems to

not all suffering gives rise to *systematic*, and *freedom-undermining* fear. And so perhaps we need to draw some (undoubtedly vague) distinctions within the category of suffering after all. But no such distinction will yield the focus on cruelty above all else.

### 3.2.2 Consensus and Skepticism

It seems that an underlying motivation for the focus on cruelty is that it's so *minimal*. And so it is perhaps not too optimistic to think that while reaching a consensus on political matters is usually impossible, we can all agree about at least this much, that cruelty is to be avoided<sup>30</sup>. Similarly, while it is often hard to know what the true answers are to the difficult questions of politics, at least we know that cruelty is to be avoided. If cruelty is special in these ways, then these are strong reasons to focus on cruelty.

Myself, I don't find disagreement all that threatening: I think that rather deep controversy is ubiquitous (talk of consensus always amounts to cheating), that the right way to proceed politically is highly context-sensitive, and that nothing about controversiality undermines a value or a suggested principle as grounds for political action. And I don't find skeptical worries very convincing, in this context or in others. Still, the line of thought from the previous paragraph deserves discussion here, because it's important to see that it can be rejected even granting for the sake of argument that there is merit to

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acknowledge that there are other, non-political sources of fear. But she does not give any reason to privilege fear from political sources over other kinds of fear.

<sup>30</sup> For instance, "Unlike Montaigne, Montesquieu knew enough not to dwell on any fancied superiority of the native peoples. It was enough to show that no difference could ever justify cruelty." (PCF, 23)

Misra (2016, 12) emphasizes the motivation of starting with as minimal a starting point as is possible. And she seems to think of this as a motivation for settling for a minimal state. But this is to trade on two different uses of the term "minimal". While perhaps not too much is needed in order to justify the minimal state, if one also wants to claim that *only* the minimal state can be justified, one cannot settle for minimalist starting points. I discuss Shklar's attitude to the minimal state in the next section.

worries about controversiality and skepticism, and even accepting the methodological advantages of minimal starting points.

I've already expressed my worries about claiming consensual status for anything remotely interesting in politics. I'm afraid, then, that even on cruelty no consensus can be achieved<sup>31</sup>. But the point I want to stress here is different, and comparative. Surely, that suffering is to be avoided is as close to being consensual as anything, indeed as anything about cruelty. Questions will arise – as they always do, indeed as they do with cruelty as well – about borderline cases, about the precise understanding of suffering, about exceptions. But if it's consensus you're after when doing foundational political philosophy, you probably can't do much better than start with suffering<sup>32</sup>.

Now, I cannot here discuss Shklar's skepticism, partly because, as the secondary literature clearly shows<sup>33</sup>, it's not clear what her skepticism exactly comes to, how wide its scope is, what its implications are, and what the relations are between Shklar's skepticism and her Liberalism of Fear. And let me remind you again that I am not here interested in Shklar exegesis. For my purposes suffice it to say that – as with the hope for consensus – the negative value of suffering is not plausibly considered more epistemically problematic than that of cruelty. Whatever Shklar's qualms about knowing or justifiably believing all sorts of moral truths may have been, she was despite them fully confident in the wrongness of cruelty. She should have been – and perhaps even was – just as confident in the badness

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<sup>31</sup> Of course, we can delineate the group of people whose opinions count precisely in order to secure a consensus on this matter. But it's going to be hard to think of a consensus achieved in this way as significant. When it comes to cruelty, it's going to even be hard to reach consensus on what it is and which practices *are* cruel. For some relevant criticisms of Shklar, see Kekes (1996). I am rejecting the centrality of cruelty, however exactly it is understood, so I don't need to engage these matters further here. Kekes's paper is an attempt to defend some kind of conservatism, shifting attention from the political agent's intentions to consequences, insisting that good intentions sometimes misfire, and so on. I agree that – as I proceed to elaborate on in the next section – the emphasis cruelty puts on the agent's intentions is misplaced, but I don't think this supports a conservative critique of Shklar. If anything, it supports criticizing her from the left. More shortly.

<sup>32</sup> Of course, the relevant hoped-for consensus is not about suffering being the *summum malum* of politics, or about all and only suffering being politically relevant, or any such thing. It's just about it being bad and in general worth avoiding and preventing.

<sup>33</sup> See, for instance, Gatta (2018).

of suffering<sup>34</sup>. And independently of Shklar too it seems that starting with the badness of suffering is about as epistemically secure as, in politics, one can get<sup>35</sup>.

### 3.2.3 More Suitable for Politics?

It may be thought that even if there's a general perspective – perhaps a moral or ethical one – from which no distinction between cruelty-induced suffering and other suffering ultimately matters, still there's something about *politics* that justifies the focus on cruelty and fear. Perhaps something along these lines is what Shklar has in mind when she writes: “Liberalism must restrict itself to politics and to proposals to restrain potential abusers of power...” (LF, 31) Other things may be important, on this picture, and other, cruelty-unrelated suffering regrettable. But it's not the basic material for a liberal political philosophy. For that, we need to focus on abuses and abusers of power, that is (presumably<sup>36</sup>) on cruelty.

Now, at least this quote from Shklar may be read as partly definitional of “liberalism”, in which case it is not relevant for our purpose – which is finding out what governments and states ought to do, not what is the best interpretation of what some specific tradition *says about* what states and governments ought to do.

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<sup>34</sup> I guess it's possible to insist that judgments about wrongness are immune to skeptical worries that judgments about badness are vulnerable to. Myself, I can't see a way of making such a claim at all plausible. Also, this would apparently not be a good reading of Shklar, who was not (at least if we believe Yack's (1999, 1104) commentary) a huge fan of the distinction in such contexts between the good and the right.

<sup>35</sup> Gatta (2018, 7) attributes to Shklar “a rejection of essentialized, pre-conceived, and anti-political notions of suffering, cruelty, and fear, precisely because those notions could become instruments for further suffering and victimization.”. Putting other worries about this statement to one side, the crucial point to note is analogous to the one in the text about skepticism and about disagreement: For in the respects Gatta's Shklar is concerned about too, suffering does better, and certainly no worse, than cruelty. Perhaps there is no pre-political conception of cruelty (though I have to say I am not sure what this would mean). But there is *clearly* a pre-political conception of suffering. All that is needed in order to know what suffering is like and that it is bad is, at most, to suffer.

<sup>36</sup> Of course, not all abuses of power need be cruel (though perhaps all acts of cruelty by those in power constitute, for this very reason, abuses of their power). Because I am about to reject the thought that the political justifies a strong distinction between different kinds of suffering, I don't need to worry about the details here.

Regardless of that quote, though, in order to maintain that the distinction between cruelty-related-suffering and other suffering holds just in the political sphere, one must defend a rather strong distinction between the political and (other parts of) the moral. I have never found such distinctions at all plausible – the normative parts in political philosophy seem to me perfectly continuous with moral philosophy in general. But this, alas, is a big topic – so-called “political realism”, currently fashionable in some circles, is to a large extent based on rejecting this claim, and I cannot engage this controversy in detail here<sup>37</sup>. I’ll have to settle for the following claims: First, for the view discussed in this section to succeed, such a strong divide between the political and the rest of the moral must indeed be assumed. This, at the very least, is a further commitment. Second, it’s not at all clear that this is a commitment Shklar herself would have wanted to take on board, at least if Yack (1999, 1104) is right that Shklar was skeptical of the distinction between political justice and conceptions of the good<sup>38</sup>. Third, I’m not sure that a focus on cruelty is precisely what political realists – who do support a strong distinction between the moral and the political – have in mind when they’re thinking of the political. Cruelty still seems like an extension of private morality – of individual agency, perhaps even of virtue and vice – into the political sphere. Though a focus on cruelty is in line with political realists’ emphasis on power relations, it doesn’t sit well with thoughts of the political as autonomous, to an extent independent of private morality and of the ethics of virtue and vice.

Fourth, and most importantly: Even putting to one side such questions as what Shklar must have had in mind (and why), and what political realists have in mind (and why), the thought that some serious suffering is excluded from political relevance just because it is not caused by cruelty is – right off the bat,

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<sup>37</sup> For a sympathetic overview, see Rossi and Sleat (2014). For devastating criticisms, see Leader Maynard and Worsnip (2018).

<sup>38</sup> See also Yack’s (2017) related claim, on Shklar’s behalf, that insisting on the confines of Public Reason often amounts to silencing the victims of political injustice.

perfectly intuitively – highly implausible<sup>39</sup>. This was the lesson of the thought experiment from section 3.1. Now, perhaps some kinds of suffering are independent of politics in the sense that politics can't affect them – though the suffering resulting from mismanaged natural disasters is clearly not an example of this<sup>40</sup>. But anyway, for those for which political decisions *are* causally relevant, the thought that their effects in terms of suffering are entirely politically irrelevant cannot be defended.

If all of this is right, then all that's plausibly left of the thought that cruelty and "its" fear are more suitable for politics is a host of more practical concerns, not about what ultimately politically matters, but rather about what it's a good idea for political agents to consider and act on. I return to these in section 5, below.

#### 3.2.4 The Doing-Allowing Distinction

In many contexts, we intuitively distinguish between doing harm and allowing harm. Doing harm, it is usually assumed, is more morally serious, and so requires more in order to be justified, compared to merely allowing harm. Everything here is complicated, of course, and many more details are needed<sup>41</sup>. But you can see how this distinction may be thought relevant in our context: Cruelty causes suffering; perhaps other governmental failures amount to allowing suffering to occur. If so, and if doing harm is in general more seriously (pro tanto) wrong than allowing harm, we have the beginning of a rationale for singling out cruelty.

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<sup>39</sup> The same goes for attempts (like Kaufmann's 2020, 12) to distinguish within fear the politically relevant from the politically irrelevant.

<sup>40</sup> Perhaps the suffering of a broken heart is a better example. Even here, though, politics is not entirely causally irrelevant. Think of urban planning arrangements that make meeting new people more or less likely, of the expectations in terms of gender and family life, and so on.

<sup>41</sup> See Woollard and Howard-Snyder (2016), and the many references there.

I don't think it's plausible to attribute relying on the doing-allowing distinction to Shklar, but because I'm not doing exegesis here, I won't say more on this<sup>42</sup>. Rather, I want to respond to the suggestion in terms of the doing-allowing distinction by arguing that there are general worries about the moral significance of this distinction; that there are special reasons to be suspicious of its significance in our context; and that the overlap between doing (as distinguished from allowing) harm and cruelty is not strong enough.

First, then: How exactly to make conceptual sense of the doing-allowing distinction, and then whether or not it is morally significant, are highly controversial matters. Myself, I suspect that the doing-allowing distinction itself has no intrinsic moral significance. But, of course, this can't be pursued here. Suffice it to say that if the proponent of putting cruelty (rather than suffering) first wants to rely on it, she is undertaking the commitments that come along with it, and she should be willing to defend them.

Second, assume for the sake of argument that the distinction between doing and allowing harm is sometimes intrinsically morally significant. Still, I want to suggest, it's highly unlikely that our context – the most general one of normative political philosophy – is one such place. When the state fails to prepare, say, for natural disasters, and then proceeds to fail in responding to them (so that terrible harm befalls some of its citizens), has the state done harm, or merely failed to prevent it? I'm not worried about the conceptual question (though that too may not be too easy). My point, rather, is about the moral insignificance of the conceptual question: it doesn't seem plausible that the moral status of the state's negligence here will depend on the question whether what it has done or failed to do amounts to causing or to allowing harm. Similarly for many other cases of state (in)action<sup>43</sup>. Perhaps because of the

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<sup>42</sup> Except for this: At one point (LF, 30) Shklar writes: "The only exception to the rule of avoidance is the prevention of greater cruelties." If this is her considered view, then she cannot consistently rely on the doing-allowing distinction.

<sup>43</sup> This is consistent with the doing-allowing distinction being (even intrinsically) relevant in some other cases of state action. For a reason that is not entirely clear to me, attributing significance to the distinction seems much more plausible when we're talking about states' actions (or inaction) vis-à-vis other states and their citizens than

complexity of state action (compared to individual action), perhaps because of other considerations<sup>44</sup>, applying a doing-allowing distinction to the state – especially in the form needed to defend a strong priority for cruelty-related suffering over all other suffering – is highly implausible.

Perhaps more importantly, though – and somewhat less profoundly – even assuming a strong doing-allowing distinction as applied in politics, we still don't get a rationale for privileging cruelty-related suffering. All that would follow is that the state should give higher priority to, roughly, not causing harm than to preventing harm. But not all cases of actively causing harm amount to cruelty, and some cases of “merely” failing to prevent harm can be very cruel indeed. Furthermore, even supporters of the doing-allowing distinction do not deny that allowing harm too may often be morally problematic (just not *as* problematic as doing harm). For this reason too, then, nothing about the doing-allowing distinction can support the exclusivity of the concern with cruelty over other considerations that is a part of the Liberalism of Fear. It cannot justify rejecting the initially compelling thought that all suffering counts (even if not entirely equally).

Cruelty, then, is not a good candidate for the political *summum malum*, and not nearly as good as suffering is. The political *summum malum* has to be patient- rather than agent-centered, it has to be primarily about the receiving end of political action (and inaction). Now, the discussion above falls short of establishing that all suffering – or even just all serious suffering – is to be treated equally in politics. At several points in the discussion, room was left for further distinctions within suffering or within actions causing suffering – say, a distinction between doing and allowing suffering, or a distinction between suffering that counts politically and suffering that does not. I have expressed some doubts about those,

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when we're talking about its (in)actions vis-à-vis its own citizens. (Perhaps this is because of the special obligations of a state to its citizens.)

<sup>44</sup> Such other considerations will again depend on how best to understand the doing-allowing distinction and why it is (purportedly) morally significant.

and will in any way proceed on the assumption that the centrality of suffering has been established – either because even these other distinctions are at the end of the day indefensible, or because this is at least a close approximation that suffices for our purposes here.

#### 4. Beyond Shklar's Caution

The shift from cruelty to suffering as the political *summum malum* is, I proceed to argue in this section, a very significant shift. Its implications to theoretical normative political philosophy cannot be exaggerated. (The “theoretical” here is important. In section 5 I say why.)

To see this, start from Shklar's (PCF, 26) implied praise for Montaigne, who, as mayor, did as little as possible, always opting for “the least harmful course of action available to him”. If we put cruelty first, it's easy to understand this praise. If the single most important thing when it comes to politics is to avoid cruelty, then this Montaigne-like minimalism is precisely the right attitude for a politician. And from the point of view of social design, the thing to do seems to be to minimize the state as much as possible. With very few qualifications, the weaker those in power, the smaller the risk of cruelty<sup>45</sup>.

But focusing on the receiving end of political action, and in particular on suffering, has very different results. Whether a smaller or a bigger government has better consequences in terms of suffering is not something that can be determined a priori – the question is to a large extent empirical, and there is no reason to think that the answer will hold across all sets of possible political circumstances. If Montaigne is concerned, first and foremost, to avoid cruelty, doing as little as possible makes sense. If he is concerned, first and foremost, to prevent and alleviate great suffering, then doing as little as possible may still sometimes be the right way to go – but whether this is so will depend on a

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<sup>45</sup> Or anyway, of *their* cruelty. Sometimes those in power need to be strong enough to combat other kinds of cruelty (think domestic abuse, for instance). This observation may – all by itself – suffice to sever the tie between putting cruelty first and the minimal state.

host of contingent matters, cannot be known a priori, and, I hazard a speculation, often there will be other, much better, policies and decisions available to him<sup>46</sup>. Certainly, a blanket recommendation to go for a minimal state, as a matter of social-political design, will just not do.

This shouldn't be surprising at this stage. As already noted, putting cruelty first amounts to an emphasis on the *agents*, those exercising power. Putting suffering first amounts to an emphasis on those at the receiving end of political action. If we focus on political agents, power is seen mostly as an opportunity for an abuse of power. If, however, we focus on those on the receiving end of political action, power is sometimes a source of hope, of relief, of good coordinated action – and sometimes remains a huge threat and source of fear, of course. Power should still be checked, but it should also be used, and all the interesting questions arise further down the road – when to use what power, how, how it should be checked, by whom, and so on. So while taking cruelty first almost provides a shortcut bypassing most of politics and leading directly to (Shklar's) Montaigne's minimalism, focusing on suffering leads us back to all the complexities of politics, and of political philosophy with it. Perhaps it was too (methodologically) optimistic of Shklar to aim at such a shortcut<sup>47</sup>.

What this means is that the shift from the focus on cruelty to the focus on suffering undercuts Shklar's extreme caution. A politician who is above all concerned to avoid cruelty is much less dangerous than others. A politician who is above all concerned to minimize serious suffering – and who accepts the argument of section 2 above to the effect that in most political cases suffering outweighs all other relevant considerations – is actually quite dangerous. Such a politician is vulnerable to an especially

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<sup>46</sup> Shklar describes Montaigne both as doing as little as possible, and as opting for the least harmful course of action available to him. The point in the text amounts to seeing that these two are nowhere nearly equivalent. Whether, in a specific set of circumstances, doing as little as possible is the least harmful course of (in)action is an empirical question. In many circumstances, this will just not be so.

<sup>47</sup> Shklar's texts include also some evidence against reading her as a supporter of the minimal state (see, for instance, RLT 37-38), and in correspondence Bernie Yack explained that she was not one. Again, then, it's important to stress that I have no exegetical ambitions. Even in our context, Shklar sometimes says different things, as when she explains that (LF, 30) "The only exception to the rule of avoidance is the prevention of greater cruelties." Here Shklar realizes that inaction may cause more harm (even in terms of cruelty!) than action.

powerful case of the dirty hands problem<sup>48</sup>. For if, in politics, suffering crowds the normative plate, then no hands are too dirty, and a conscientious politician should be willing to do whatever it takes – literally, *whatever* it takes – to reduce suffering. They should be willing to violate rights, to manipulate the public, to oppress, to curtail free speech, indeed, to act cruelly<sup>49</sup>, if this is what will reduce suffering. In fact, an unwillingness so to act – perhaps especially if motivated by the desire to keep one’s hands clean – amounts on such a view to a violation of the single most important duty of anyone possessing power – that is, to reduce serious suffering.

And now you may be worried. One of the features of Shklar’s view that seems most attractive, that most clearly takes into account the real world and that helps to ground her sensible political commitments is her rather extreme caution. But now, having substituted suffering for her cruelty and fear, we seem to have left her caution unsupported. As among Shklar’s Montaigne and the ruthless if well-motivated politician who is willing to dirty his or her hands if this is the way to reduce suffering, we know (I think) who is the more dangerous one. Has the shift in focus from cruelty to suffering led us, then, from cautious, sensible politics to ambitious, dangerous political adventurousness? If so, isn’t *this* all the reason that is needed to stay with Shklar’s focus on cruelty?

Now, *some* reasons for caution remain even after the shift to suffering as the political *summum malum*. Consider the kind of caution that follows from what Shklar (PCF, 25) calls “the conservatism of universal disgust” – that is, the conservatism that is motivated not by infatuation with the social institutions we already have or by blindness to their many shortcomings, but rather by worries about any alternative. All that is needed for such caution, it seems to me, is Shklar’s basic pessimism, which a

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<sup>48</sup> For the *locus classicus* see Walzer (1973). For discussion and many references, see Coady (2018). Of course, my use of the term “the dirty hands problem” is not intended to commit me to any more specific things that Walzer or others have to say about it.

<sup>49</sup> But notice that Shklar herself seems to be open to this possibility when she says (in a sentence I already quoted twice): (LF, 30): “The only exception to the rule of avoidance is the prevention of greater cruelties.” With this sentence she seems to be giving away the game. So it’s not clear to me how exactly to read her.

suffering-centered view shares. So it's not as if with the shift from cruelty to suffering we must throw all caution to the wind. But yes, a suffering-based view is – as a matter of necessity – much less cautious than a cruelty-based view.

Whether being less cautious is a flaw in a normative political theory is, of course, an open question. For such a theory may be *too* cautious<sup>50</sup>, allowing the state the power and opportunity to do too little, for instance in terms of reducing suffering. Still, I return to the attempt to justify more by way of caution – and indeed, to soften the political dominance of suffering – in the next and final section.

## 5. A More Modest Liberalism

The picture that emerges is both pessimistic and worrying. When it comes to politics, suffering normatively dominates almost all other considerations almost all the time. So nothing – no rights, procedures, democratic traditions, *nothing* – should stand in the way of a politician's efforts to reduce suffering.

There is an important truth in the vicinity, I think. Certainly, I am sympathetic to the well-intentioned politician who foresees great suffering, sees an opportunity to reduce it, and who ruthlessly and without inhibitions – without even liberal inhibitions – pushes ahead to take advantage of this opportunity. But it is important to see that more can be said here, indeed in a way that to an extent renders the conclusion of previous sections somewhat less worrying.

For we need to distinguish between what considerations really matter, and what considerations we want those in positions of power to consider. One way of seeing this is returning to the politician

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<sup>50</sup> Here's an example that I find especially important. Shklar was opposed – rather strongly and clearly – to any attribution of false consciousness (Ghata (2018, 13)), and it is easy to see why – given her pessimism and caution, given the conservatism of universal disgust, given the dangerous record of such attributions. But I think that attributions of false consciousness are sometimes indispensable – at the very least in doing political philosophy, if not in politics. (See my “False Consciousness for Liberals” (2020)). This is one important case in which I think Shklar is being too cautious.

from the previous paragraph. I want to insist that such well-meaning, competent, conscientious yet ruthless politicians are possible, and indeed actual. (At the least, I want to insist that such *moments* occur, for many politicians, even if most politicians also have other, less flattering moments.) But still, such politicians are rare<sup>51</sup>, and the more common consequences of ruthlessness in those in positions of power are bad, sometimes devastating (in terms of suffering as well as in other terms). And this opens the door again for the traditional liberal restrictions on power. Freedom of expression, participatory rights, people's autonomy, and so on – all of these are important politically, on this picture, not because they are sufficiently important to outweigh the horrible suffering that is often on the line when doing politics – they are not. Rather, all of these are constraints imposed on imperfect politicians and authorities, precisely because we understand that over the long run restricting politics along these lines will have better results, *in terms of suffering*, than taking our chances with unrestricted politics (and politicians). There are different ways of more fully accounting for such an indirect justification of liberal constraints on power<sup>52</sup>. But however the details are filled in, such indirect structures of justification surely make sense – depending, that is, on the plausibility of the empirical claims about which institutional setups are likely to have what consequences, especially in terms of suffering.

The considerations that may justify such an indirect defense of traditional liberal rights – and perhaps even an emphasis on cruelty – are numerous and varied<sup>53</sup>. They include how hard it often is to

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<sup>51</sup> And, furthermore, to design political institutions mostly with such politicians in mind will be to fall victim to a kind of optimism that does not sit well with my (following Shklar's) pessimistic starting point.

<sup>52</sup> One way of thinking of things here is rule-consequentialist. On such a picture, the justificatory relation between the *summum malum* and political action is mediated by the rules, and so while what ultimately matters is (pretty much) reducing suffering, political action should be guided by rules the general following of which will tend to reduce suffering. But the point in the text need not be rule-consequentialist. Even if rule consequentialism cannot at the end of the day be defended, still there is room for indirect considerations of the kind in the text.

Another way of thinking of the point in the text is in terms of Raz's *exclusionary reasons*. Perhaps people in positions of power have most (first-order) reason to minimize suffering, but they have reasons (having to do with politicians' imperfections) not to act for those reasons.

The two models – rule-consequentialism, and exclusionary reasons – may be related. And there may be yet other options as well.

<sup>53</sup> I thank Pazit Ben-Nun Bloom for patiently insisting – in an empirical-political-science-informed kind of way – on many of these.

know about the overall long-term effects in terms of suffering; how an explicit and public emphasis on suffering may affect political culture and discourse; how it may encourage viewing oneself as a victim, and more generally how it may generate problematic incentives for all involved; how the need to rely on a rather clear, operationalized conception of suffering may be counter-productive; how commensurating different kinds of suffering may be – even if not impossible – impractical; how perhaps government is not very good at minimizing suffering in general, and may do more harm than good (in some circumstances, perhaps); how cruelty in particular has devastating psychological effects for those leaving in its shadow (not just in the more narrow terms of Shklar’s fear); and, to repeat, what we know about the personality types of people drawn to politics, and how likely they are to act under a just-minimize-suffering regime. Furthermore, the effect of such considerations may differ across contexts and circumstances. Perhaps, for instance, in more extreme circumstances – say, when large-scale hunger is a possibility – the focus should remain on suffering despite such considerations, but perhaps not so in more comfortable circumstances. And maybe we can describe a subset of cases of political decisions in which the stakes in terms of suffering are not that great after all. Nothing here is simple, and everything here is contingent, and so knowable, if at all, empirically.

One last caveat: Throughout, I’ve been insisting that when it comes to politics, serious suffering will almost always outweigh other considerations. But perhaps this was too quick. Perhaps we can make progress by trying to distinguish between political contexts in which suffering plausibly outweighs other consideration, and those in which it does not. If we can identify a class of political decisions where suffering need not outweigh other considerations, perhaps they can normatively regulated by the liberal values that ultimately matter. Perhaps – going really speculative here – decisions that are primarily about a small number of specific individuals are often ones where not enough serious suffering is on the line to outweigh other considerations. Perhaps this is the beginning of an argument for the intrinsic

significance of traditional liberal values and rights to many court decisions (at least in lower instances), in ways that don't generalize to other kinds of political decisions.

This picture, then, reinstates liberal rights and democratic restrictions on political power despite putting suffering first, indeed, *in virtue of* putting suffering first. But it does so in a derivative way. This doesn't mean they're not important. It just means they're not of ultimate importance. I'm not sure whether this is a problematic result. Notice, of course, that on such a view it's a further question what it would be best for those in positions of power to believe. Perhaps it's best that they believe liberal rights are of ultimate importance (because otherwise, they will be more often tempted to violate them, thereby at the end of the day bringing about more suffering). If so, a kind of a government-house suffering-based view<sup>54</sup> is called for, and the earlier sections of this paper should not be allowed to affect the views of those in power. (This doesn't mean that this paper shouldn't be published. It's not as if those in power are awaiting my – or even our – academic papers.) Or perhaps we can afford telling politicians the truth – that ultimately it's really (almost) all about serious suffering. Which way to go here will depend – as might be expected – on the expected consequences of the alternatives in terms of suffering. But it should be clear that if these recommend the less transparent view, where myths about the ultimate significance of liberal rights are to be propagated, I will not view this as a flaw. Perhaps transparency matters, even intrinsically. It's just that even if it does, in politics it is likely to be outweighed by suffering almost every single time.

The emerging picture has also the following interesting implication. Many of the traditional liberal values and rights do double duty on my view: First, as items on the list of things that ultimately matter, but whose significance is very often outweighed in politics by that of suffering. And second, as possible derivative values, justified in the indirect way described above. But once this structure is clear it

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<sup>54</sup> Paraphrasing Williams (1985, 120) on government-house utilitarianism.

becomes clear also that the overlap between the two sets of values – those that ultimately (if defeasibly) matter and those that it's a good idea for our politicians to be constrained by – is less than perfect. In fact, it would be somewhat surprising – a rather striking coincidence – if the overlap *were* perfect.

Notice that this picture vindicates the intuition about legitimacy I mentioned at the outset – namely, that fancier stories of legitimacy are perhaps interesting, but that in the real world, doing reasonably well in terms of suffering suffices for state legitimacy. For the indirect justificatory story above applies to actions of officials within the system, not (as far as I can see) to questions about its legitimacy as a whole. When it comes to legitimacy, then, we stay with the normative dominance of serious suffering. Given the centrality of discussions of legitimacy, that this is all in the real world it comes to is not an insignificant result. Of course, the term “legitimacy” has become to an extent a technical term, with a more narrowly stipulated meaning (or indeed, several different stipulated meanings<sup>55</sup>), so I should qualify what I just said about legitimacy. If legitimacy is to remain a normatively significant feature of some states (that is, if the question whether a state is legitimate is one worth asking), then the point above stands. If you want to know whether it's a good idea to preserve a state or a social order, if you want to know whether its directives are genuinely reason-giving and perhaps even authoritative (at least sometimes, even when they're mistaken), then what you need to know is whether alternatives to the existence of that state or regime or social order are better in terms of serious suffering. If you'd rather work with a notion of legitimacy that is stipulatively tied to fancier things (like justifiability to all, say, or consent), you can have the word. But the price you'll be paying is that whether a state is legitimate (in your sense) will no longer be relevant to whether it should be maintained, protected, and obeyed.

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<sup>55</sup> For many details and references, see Peter (2017).

The political significance of serious suffering occupies, on this view, a kind of middle ground. Suffering is not the only thing that ultimately matters, politically or otherwise. Nor is it the consideration that should always be on decision-makers' minds. Rather, it's the normative considerations that will almost always be conclusive – because it will tend to outweigh all others. Even if encouraging decision-makers to think in such terms is counterproductive, still it's very natural to think that the political dominance of serious suffering should at least affect large-scale questions of institutional design. The point about legitimacy from the previous paragraph may be thought of as a particular instance of this more general claim.

Perhaps this picture is not that far from the one Shklar had in mind after all<sup>56</sup>. Perhaps even though it's suffering, and not cruelty, that we should ultimately put first, still a good way of doing that is to have politicians put cruelty first<sup>57</sup>. And perhaps Shklar was more concerned about such more practical questions than about what ultimately matters, a question she may have been impatient with<sup>58</sup>. But on such a picture the emphasis on cruelty and fear is derivative, as is the status of traditional liberal rights. Even if, in other words, for Shklar's purposes cruelty as a *malum* is, so to speak, *summum* enough<sup>59</sup>, still more deeply what explains this is the ultimate significance of suffering, together with contingent, if robust, facts about the relations between cruelty and suffering. On such a picture, then, there may be a strong relation between liberalism and humanism in the minimal sense I mentioned, the one that

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<sup>56</sup> It may also be very close to at least one way of reading Mill's liberalism. See Brink (2018, section 3.11.2), and the references there. Mill, of course, does not start with the pessimistic starting point I share with Shklar.

<sup>57</sup> Another possibility here is to amend Shklar so that instead of talk of *the* summum malum, we introduce talk of a multitude of negatively defined goals. I thank Bernie Yack for this suggestion. At the level of what ultimately matters – rather than what politicians should care about – I am opposed even to such a non-monist view, for the arguments above apply – it's all about suffering. As a point about what politicians should care about, however, such pluralism about negatively defined ends may very well be sensible (though this would depend on contingent circumstances).

<sup>58</sup> Recall again her insistence that she was a political theorist, not a political philosopher. See Yack (2007, 117).

<sup>59</sup> I thank Bernie Yack for relevant correspondence here, and for the suggestion that at the end of the day the distance between my view and Shklar's is not as great as it may seem. It's hard not to speculate – when describing Shklar, as Yack does, as a child of the Enlightenment – about the relevance also of her being a child of a World-War-II refugee family. The special concern about despotism is, of course, both understandable and quite possibly justified.

requires putting suffering first. Perhaps we can paraphrase Shklar's famous claim about the relation between liberalism and democracy (LF, 37), and conclude that humanism is monogamously, faithfully, and permanently married to liberalism, but it is a marriage of convenience.

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