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CHAPTER 8

The Sources of Liberal Normativity

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Comparing Judith Shklar and Hannah Arendt, Axel Honneth recently spoke of the difference in "the degree of metaphysical heat" each theorist exerted (2014: 252). At most, Shklar agreed with Arendt that political theory was dead in the present (Arendt 2005; Shklar 1967: 276), but any talk of great historical ruptures appeared suspiciously metaphysical to her, rife with unprovable assumptions. Instead, she followed John Rawls's dictum in wanting to write a theory of liberalism that was "political, not metaphysical" (Rawls 1985). Yet Shklar also, if less vigorously, criticized what she saw as Rawls's formalism—and even more, that of his "small army of squabbling heirs" (1986a: 14; see also Forrester 2012a: 261)—as too far removed from actual politics, and always at risk of being detached from the little cruelties that easily slip through the cracks of the too-rigid, rule-obsessed "normal model of justice" (1990: 17; see also Whiteside 1999). Compared to both her continentally trained and her more analytically inclined peers, Shklar was as averse to citing metaphysical justifications as she was to producing highly abstracted theories.

Many defenders of Shklar praise this trait as her "skepticism" and hold her to be a proponent of "antifoundationalism" in political theory. Her embracing a lack of grounds, it is said, entails both the realm of justification and that of method (Benhabib 1996: 56; Stullerova 2014). Her critics, on the other hand, believe this to be her greatest flaw: either her skepticism hides a core of positive commitments (Walzer 1996; Gutmann 1996; Jaeggi 2005; Robin 2004, chap. 5; Northcott 2012) or it leads into "general claims of a relativistic nature" (Nussbaum 1990: 34).

Neither position appears to do justice to Shklar's thought. This chapter defends the position that Shklar *was* a skeptic, but not the type antifoundationalists tend to assume, and that she *did* make universalist assertions, but in a way that shields her from some of the criticisms usually leveled at universalists. First, through a reading of two unpublished lectures, I show that Shklar does not share the *epistemic* skepticism of antifoundationalism. Instead, her skepticism was political, dependent on a set of positive commitments that are exempt from epistemic doubt. Second, I flesh out this difference by focusing on the connection between the methodology and content of her political theory. Finally, I speculatively reconstruct three sources of normativity for her positive commitments from the last phase of her career. The first argues for physical pain as the normative basis of her holding cruelty to be the worst evil; the second maintains that Shklar's phrase "fear of fear" can be read as a formal criterion able to historicize what is to be feared; and the third takes the articulation of a sense of injustice as a transcendental criterion that expands the liberalism of fear into a more activist political conception.

Skepticism, Determinate and Indeterminate

"There are natural skeptics who live happily with their doubts, but many people find uncertainty intolerable," Judith Shklar wrote, and pointed to Rousseau and Voltaire as examples of uneasy skeptics, scrambling for ways to "escape from the anxieties created by their incredulity" (1987a: 36). Shklar's own interpreters did not scruple to count her among the naturals.[1] Yet they failed to pinpoint the exact nature of her skepticism. What, one may ask, was Shklar skeptical about? Was it anything and everything? This pyrrhonic reading of Shklar, as James Miller has called it (2000), assumes her theory to be based on a radical *epistemological* doubt. This is relevant for both the charge of relativism and the categorization of her as an antifoundationalist. Richard Rorty famously enlisted her for the antifoundational cause by appropriating her definition of a liberal as someone who thinks cruelty is the worst thing we do; in his reading, it became the statement of an ironist (1989: 74, 146). Less radically, and more recently, Kamila Stullerova included Shklar in the canon of antifoundationalists by applying Stephen White's concept of a "weak ontology" to her thought (2014: 41).[2]

Yet there is reason to assume that Shklar would have had some qualms about the epistemological position such a label supposes. Seyla Benhabib relates her last conversation with Shklar on the topic of postmodernism and even White himself: "Having just heard a reference to a discussion of her work in a book by Stephen White on *Political Theory and Postmodernism*, she was perplexed, amused and intrigued that she would now be interpreted in the light of this category" (1992: 27). White had subsumed Shklar's thought under the "growing incredulity toward foundationalist metanarratives" (1991: 117). Hers, he wrote, was part of an "*epistemological* project" that wanted "to deflate all totalistic, universalistic efforts to theorize about justice and the good life" (122; emphasis added). Benhabib relates Shklar's reaction dryly: "She shook her head in skepticism" (1992: 27).[3]

That Shklar was skeptical about skepticism, I believe, has to do with her rejection of the type of epistemic doubt on which antifoundationalism is premised. The term, in its core meaning, is "used to refer to any epistemology that rejects appeals to any basic ground or foundation of knowledge" (Bevir 2010: 53). To Shklar, this stance risks slipping into a suspicion toward objectivity in political theory that is dangerously close to the political Romanticism she had analyzed in *After Utopia*, and into a relativism that could be politically quietist.

That this is often overlooked when she is called an antifoundationalist may be because Shklar rarely reflected on her own brand of skepticism, and when she did, her remarks remained rather vague (1990: 20; 1984: 30–35; see also Hess 2014: 123–34). In her papers, however, there are texts that point to a sustained engagement with its history and competing forms. In "The Beginnings of Modern Scepticism,"[4] a lecture at Jerusalem's Van Leer Institute in 1987, she investigated the "enormous range and complexity" of a phenomenon that is usually called by a single name ("Jerusalem Scepticism": 1). Not all skepticisms are alike, and Shklar's distinctions may tell us something about the type to which she herself subscribed.

Shklar begins her talk by highlighting the difference between ancient and modern skepticism.[5] Although modern skepticism is motivated by the rediscovery of Pyrrho in the sixteenth century, the two have very different emphases. Ancient skepticism centers predominantly on ethics and sees epistemic doubt only as a stepping stone toward *ataraxia*—its goal is not to compensate for lack of knowledge but to draw out the consequences that lead to the calm of an unperturbed soul. Purely regarding the individual, there is little that is political in this skepticism; if anything, it is as conservative as

Pyrrho's advice to heed reigning conventions. Modern skepticism, on the other hand, has no immediate ethical goal. Instead, "its pursuit was the forms of certain knowledge per se" ("Beginnings": 5). For Shklar, the struggle with *epistemic skepticism* lies at the heart of modernity. Be it as a methodological springboard toward certain knowledge or as the radical rejection of certainty, skepticism motivates all modern thought, and it spawns a range of subtypes that are theological, moral, psychological, and historical.

Epistemic doubt first takes the shape of *theological* skepticism. It begins with suspicion regarding the factual accuracy of scripture and uneasiness about its internal inconsistencies and leads eventually to the anticlerical stance of the Enlightenment. With fideism ("Jerusalem Scepticism": 1), there is also a theological rejection of all reason and doctrine in favor of consciously blind faith. Both developments individualize the believer and corrode the "demand for agreement, conformity, assent" that creedal universality presupposes ("Beginnings": 11). At least implicitly, this lack of agreement undermines the divine legitimacy of worldly and clerical authority. More importantly, it fosters an awareness of the plurality of beliefs, which in turn yields *moral* skepticism, the difficulty of sustaining universal moral claims. It first appears as the "cultural relativism" ("Jerusalem Scepticism": 2) that encroaches on European thought in the "age of discoveries." Again, Shklar insists that this is not just a secular or humanist point: even before Montaigne asked who the real barbarians were, the Amerindians or their Spanish conquerors (Montaigne 2003b), Francisco Vitoria had argued for the former's humanity from a Thomist perspective (Vitoria 1991; see also Pagden 1982). From this doubt as to whether the faith of others is not also suitable for them, and the question whether "we" are really any better than "they," follows, both logically and historically for Shklar, *psychological* skepticism: "How to know strangers" ("Jerusalem Scepticism": 3). The inability to ascertain the inner life of members even of one's own society makes it hard to assume any basis for universality: "What do we share? Not faith, not customs, not, increasingly, gender" (3). Since it is not only about one's own time but also about the past, this point results in *historical* skepticism, the rejection of history as a source of knowledge. "What evidence, if any, would suffice [. . .] even for our own ancestors" (3) becomes the question here. This "pyrrhonism of history" either rejects historical insight totally or relegates it to selective pedagogical use, as in Locke, who wanted to "sing of heroes of science, not the 'great butchers'" of history (3).[6]

Her brief sketch of the varieties of skepticism warrants two observations: First, epistemic skepticism is, for Shklar, simply an inescapable condition of

modernity. No matter if one wants to overcome or accept it, the "agreement" is destroyed for good and there is no way back to the unquestioned certainty of earlier world views.[7] Second, if it is therefore not possible to remain untouched by epistemic skepticism, most important are "the various reactions it evokes" ("Jerusalem Scepticism": 3).[8] Only when these reactions have political effects do they become relevant for political theory.

As Shklar points out, purely epistemic skepticism has only very minimal political consequences. "Apart from destroying [the] basis of agreement, [the] problem of knowledge" yields "no specific soc[ial] direction" ("Beginnings": 11). Theological skepticism may undermine the authority of church and state, yet it hardly recommends any radical change; it may even result in a general "passivity" (14). It is true, however, that moral and psychological skepticism foster a base level of tolerance, a point Shklar embraces, but this is far from being a comprehensive political position (Shklar 1986b [1964]: 64). Shklar credits Hume with having pointed out this effect on the skeptic's character, and stresses that he nevertheless gave the same council as Pyrrho had, that is, to live "in conformity with usages and laws of one's immediate society." For Shklar, this is a "Conservative impulse" that she attributed to the fact that Hume's innovations in epistemology did not translate into an interest in political thought ("Jerusalem Scepticism": 2–3).

Against Hume, Shklar pits Montaigne: his skepticism was primarily aimed at social convention, often dismissing it. In her view, this makes him not primarily an epistemic but a *political* skeptic. Unlike epistemic skeptics, political skeptics are not interested in the conditions of certain knowledge, but in "soc[ial] crit[icism] and a radical reconsideration of traditions, beliefs, of consensus and the scope and limits of governmental action" (3).[9] Shklar, too, is a political rather than an epistemic skeptic.[10] The structural difference between both is that the former is a *determinate* skepticism—it is skeptical *about something specific*. This sets it apart from *indeterminate* epistemic skepticism, which is skeptical *about the possibility of knowledge as such*.[11] While indeterminate skepticism is a philosophical position of epistemology, determinate skepticism "does not depend on any specific philosophical assumption about knowledge in general" (Shklar 1990: 20) and can take many forms; in Shklar, it marks a political position about the reactions to uncertainty. Shklar aims not to demonstrate the impossibility of reaching secure knowledge, but rather to avoid politically intolerable results in the process of coping with this uncertainty. This may *include* doubt about the confidence in secure knowledge, but it is relevant only insofar as the dangers of epistemic

certainty have a political impact. Further, because judging these results relies on the articulation of moderately stable criteria, *some* epistemic doubt has to be suspended in order to articulate political doubt. Shklar may reject grand metaphysics and philosophies of history—"No patterns. No nostalgia. No overarching theory" as she writes in her Jerusalem paper (4)—but she does not doubt the existence of normatively relevant knowledge and the possibility of objectively applying this knowledge to concrete situations.

Indeed, among the varieties of skepticism she presented, Shklar's position is epistemically rather nuanced: while she stresses the need to guard oneself against eurocentrism (Shklar 1986b [1964]: 128; 1967: 278–79), she strongly condemns relativistic arguments (Shklar 1998c [1989]: 15–16), precisely because they do not offer any political guidance;[12] while the inability to empathize completely with others heightens a sense of tolerance and of individualism as a political good, much of her work relies on psychological speculation (Shklar 1984, chap. 6); and while she does not subscribe to the dictum of *historia magistra vitae*,[13] she often stresses that a "strongly developed historical memory" (Shklar 1998c [1989]: 9) is a prerequisite for the understanding of contemporary society as much as a safeguard against political naïveté. One of the "hazards of pyrrhonism" (Shklar 1998b [1980]: 106) in history is that it "tends to be translated into a sense of social futility" (107)—if history shows evil to be infinitely pervasive, one could be compelled to believe social improvement impossible. Shklar opposes such futility as highly apolitical already in her first book, *After Utopia*: "Without that grain of baseless optimism no genuine political theory can be constructed," she claims (1957: 271).[14] Shklar is no optimist but clearly holds reformist hopes, as Katrina Forrester (2011) has convincingly shown. In all these instances, Shklar's position is a far cry from fundamental epistemic skepticism.

Objectivity and Interpretation

Before I turn to Shklar's positive commitments and the way she justifies them, it is worth stressing that her determinate, political skepticism is a matter of both substance and method; in fact, the difference is hard to draw here. This comes to the fore most clearly in "Squaring the Hermeneutic Circle," her attack on hermeneutic, or interpretive, social science (Shklar 1998d [1986]: 75–93). Focusing on the work of Charles Taylor and Paul Ricœur, she criticizes insufficiently objective and objectifiable methods in scholarship both

as unscientific and as politically dangerous. I concentrate on her take on Taylor here, which throws into relief the intertwining of political and methodological critique most forcefully.

In the 1971 paper "Interpretation and the Sciences of Man," Taylor assailed what he called "mainstream political science" (1979 [1971]: 50), which tries to transpose the methodology of the natural sciences onto the "sciences of man." In Taylor's account, it treats cultural meanings like "brute data" (39), objectively verifiable facts, from which causal explanations can be derived. The problem for Taylor is that this atomistic view of meaning must miss that all cultural significances emerge from a background of intersubjective and common meanings, and therefore have to be understood in conjunction with that background. These meanings cannot be verified in isolation empirically and objectively, nor can they be included in causal explanations. Instead, they can only be approached through hermeneutical insight, that is, the empathetic judgment of a situated interpreter. As a result, there is no verification procedure that can adjudicate between contesting interpretations, resulting in a type of relativism in which "we can only continue to offer interpretations" (66) but not hope for an objective and causal account of cultural phenomena. This, for Taylor, "puts an end to any aspiration to a value-free or 'ideology-free' science of man" (68).

Shklar, in fact, agrees with the basic premise of Taylor's position that political science cannot be treated like the natural sciences, and that the search for perfect epistemic certainty only leads to frustration. But she objects to the epistemic skepticism she perceives in Taylor, which makes him discard *any* empirical approach in the "sciences of man" and rely solely on interpretation. Because Taylor argues as an epistemic holist, Shklar holds, he does not want to differentiate between the statement of facts, causal explanation, and the interpretation of common meanings for matters of the life-world; even the language in which descriptions are rendered is not neutral but part of the whole context of meaning (Shklar 1998d [1986]: 81). Shklar rejects this position with reference to W. G. Runciman's distinction between the aspects of reporting, explaining, and interpreting in the social sciences (86–91).[15] Methodologically, for Shklar, it is not the interpretation of common meanings or causal explanation that pose the biggest problems; both are, in fact, comparatively easy to achieve (Shklar 1998d [1986]: 88–89). The main challenge is the establishment of the facts themselves, on which explanation and interpretation rely. Shklar stresses that even though it is clear "how inadequate even the best survey research often is," she is convinced that it "does

not have to be so in principle" (88), and she does not "believe that scientific inquiry constitutes an ethical disaster" (77). Often, it is possible to give a sufficient account of facts and events—and because this task is both difficult and the prerequisite for all other research, it is deleterious to declare it outright unattainable and supplant it by divination.[16]

It is within the challenge of establishing the facts that Shklar's political skepticism takes over her epistemic skepticism. In the social sciences, the biggest problem in giving a factual account is attaining the self-descriptions of the agents involved. For Shklar, these descriptions do not yet constitute culturally all-encompassing interpretations but are basic propositions that can be collected by survey or through public discourse (see Stullerova 2017: 73). When it comes to politics, however, only some agents have the chance of speaking; many are victims, silent or silenced, actual or likely, whose voices go unheard. As Jan-Werner Müller puts it, Shklar "wants us to train our eyes on the most vulnerable," who are at the highest risk of becoming "invisible and inaudible" (2015: 54). Taylor's interpreter, by "uncovering submerged mentalities" (Shklar 1998d [1986]: 81) and claiming to express a "common set of meanings" (80) of which even these agents themselves may not be aware, arrogates the ability to speak for them and, at worst, bereaves them of the opportunity to articulate feelings of fear, injustice, and victimhood. Further, because Taylor rejects *Wertfreiheit*, the only way understanding can be achieved is not just by the command "'develop your intuitions,' but more radically 'change yourself'" (Taylor 1979 [1971]: 68). The goal of any interpretation must be to bring the world of the interpreter and that of the listener into congruence, and Shklar rejects this as transformative, not reformist, politics (Shklar 1998d [1986]: 81).[17] The underlying project of fabricating congruence is for her nothing but an "ideology of agreement" (Shklar 1986b [1964]: 88–110), as she called it in *Legalism*, which is the position that cannot bear the pluralism and diversity of viewpoints in liberal societies and tries to turn conflict into agreement by all means, even at the price of enforced conformism (see Bajohr 2018).

Between Shklar and Taylor, determinate and indeterminate skepticism again make all the difference: while Shklar's arguments employ epistemic skepticism—how can Taylor know what the submerged and unstated beliefs really are?—it is in its possible *political* results that these epistemic suspicions become relevant to Shklar. For her, Taylor reacts to epistemic skepticism like Rousseau and Voltaire, veering off into dogmatism; as a political consequence, such theorists "fear skepticism more than evil" (Shklar 1991b: 109). For the

determinate skeptic Shklar, the reverse is the case: the rejection of evil must hedge the attempts to overcome skepticism. Method and substance indeed converge here.

Taylor is not the only one Shklar attacks on this account. Her ire directed at communitarians such as Michael Walzer (Shklar 1998f: 376–85)[18] and hermeneutically operating theorists such as Ronald Dworkin[19] is a constant topic in the 1980s and 1990s. However, there are also examples from the other end of the spectrum of political philosophy. Here, too, political trumps epistemic skepticism. Shklar may well have doubted the assumptions underlying John Rawls's "original position" in the same way she doubted Taylor's claim that an interpreter can unearth submerged common meanings, yet she reacts much more strongly against Taylor because she suspects him of being illiberal, whereas she never questions Rawls's liberal commitments. Once Rawls begins to respond to criticism that his normative model universalizes a particular Western experience by introducing a historicized notion of the "overlapping consensus," Shklar's assessment becomes more urgent. "Society's main intuitions," Rawls writes, are a "fund of implicitly shared fundamental ideas and principles" that "can be elaborated into a political conception of justice" (1987: 6). In a letter to Rawls, picking up the point she made against Taylor, Shklar takes issue with "the basic assumption on which you build your edifice: the implicit 'values' of an actual political society. The task you then set yourself is to draw out these intimations and make them explicit. The burden of historical proof then becomes very heavy. You cannot evade the demand for demonstrably accurate historical evidence to show that these are indeed the latent values. How latent? How widely shared? How deeply held and by whom at what times? In peace and in war, in secure and insecure times?"[20]

While overtly articulated values may be derived from political philosophy, prevailing legal thought, and the history of specific institutions—something Shklar does in her own work—unearthing "implicit values" again risks setting up an omniscient interpreter and drowning out the voices that may suffer under them. Shklar urges Rawls to find "a far less speculative ground to start from. Those latent values have to be accounted for every bit as much as more overt ones."[21] While less vitriolic in tone, Shklar here sees the same danger as in Taylor; and she now explicitly argues for the necessity of a "ground."

If even Rawls received this criticism, it is easy to see why Rorty—like Taylor a "postempiricist" (Bernstein 1983: 20–25)—would have been even more

of a target. However, this does not make Shklar a pure empiricist. She has no illusions about the scientific precision of her field. Already in the 1950s she had sought to balance the dominant positivist and behaviorist approaches to political theory with historical learning (see also Forrester 2012b). Her position is that once these empirical methods give up their pretensions of turning political science properly scientific, their contributions are welcome into an imperfect discipline's methodological pluralism.[22] "Being Scientific Without Science," as the title of a 1986 paper would have it, is both ailment and task of the discipline.

In that brief text, which she delivered for a roundtable discussion at the American Political Science Association, Shklar insists that she wants to make "interpretation along with description and explanation an integral part of political understanding," yet also that to "use it as a substitute is to indulge in pseudo-science. [. . .] It is science bashing in order to do your own thing, on the randomly held belief that down there deep in the common mentality there is agreement and security from doubt."[23] Against such "pseudo-science," the kind of scientific rigor that political theory can achieve is for Shklar the academic proceduralism of accountable discourse, clarity of argument, and receptivity to the facts of the empirical sciences (see also Shklar 1998f: 378). Exactly because political theory cannot be exact, it has to rely on the factual truths with which the empirical sciences provide it; and exactly because political consequences trump epistemic doubt, it is important to have plausible ways to make up for the "occasions when needed scientific knowledge is simply not available." The perspective of the victims is a frequent point of failure, so Shklar demands techniques that can act as credible replacements. It is only from here, in the absence of established factual data, that "narrative history and literary psychology" come into play; they "try to supplement the sciences without the rituals of rivalry" (378).[24]

Such a science achieves a type of objectivity that may not be equal to that of the natural sciences but is nonetheless much closer to it than Taylor's relativism. Shklar makes this point expressly in "The Liberalism of Fear." Confronted with the charge that liberalism's universalism is ethnocentric (which is Taylor's position) as it rejects certain cultural practices such as caste systems, Shklar insists that "to step outside these customs is not, as the relativist claims, particularly insolent and intrusive. Only the challenge from nowhere and the claims of universal humanity and rational argument cast in general terms can be put to the test of general scrutiny and public criticism" (Shklar 1998c [1989]: 16). While Shklar reiterates her belief in public

reason and academic proceduralism, it is the "challenge from nowhere" that sheds light on her notion of objectivity. It directly references Thomas Nagel's antirelativistic *The View from Nowhere*, which she describes as presenting "the philosophical panorama from that nonposition" (20). Nagel develops a notion of objectivity that does not reduce the radical particularity of subjective experience. Instead, objectivity is construed as "self-transcendence" (Nagel 1986: 74), the taking up of a self-reflexive view that does not exclude perspectival notions but still separates them from the one having the perspective. It is "a style of understanding," as Bernard Williams puts it, "*of* that point of view which is not itself given *from* that point of view" (2014: 262).

This is a notion of objectivity that Shklar seems to subscribe to as well—to a degree. The insistence on facts and a "less speculative ground" is not the result of a strong epistemology, but rather a consequence of Shklar's political skepticism taking precedence over her epistemic skepticism. Nevertheless, this qualified affirmation of objectivity sets Shklar even further apart from the antifoundationalists; and between Nagel and Rorty, it is clear whose side she would have taken in the "science wars" of the 1990s. But the political decision for a belief in plausible objectivity is itself based on normatively relevant assumptions that need to be accounted for. It is here that one must turn to her most deeply held commitments.

Shklar's Empirical, Formal, and Transcendental Sources of Normativity

In the 1980s, Shklar's discovery of Montaigne in *Ordinary Vices* inaugurates the investigation of more foundational normative assertions.[25] The most famous expression of this radically new and last phase of her work is without a doubt her 1989 essay "The Liberalism of Fear." It does not begin with a highest good but with a highest evil: "That evil is cruelty and the fear it inspires, and the very fear of fear itself" (1998c [1989]: 11). It negatively articulates a universal normative claim—or rather, two such claims: while the fear of cruelty is an *empirical* principle, the fear of fear, taken seriously, constitutes a *formal* principle. Shklar does not always clearly separate the empirical and the formal, but they are two distinct sources of normativity. Both are closely intertwined with a third, *transcendental*, principle, which describes conditions of the possibility for articulating a sense of injustice. Here, I will try to reconstruct these three sources of normativity, even if I run the risk of over-

stating Shklar's justificatory aspirations. The reconstructive license employed here, however, is apt to show most clearly how little the label of antifoundationalist applies to her.

To deduce norms from cruelty and fear has been highly controversial, and Shklar has been criticized on these grounds. Putting cruelty first has been called a naturalistic fallacy that ignores the cultural construction of emotions (Robin 2004, chap. 5), or as the introduction of ahistorical constants that cannot do justice to the complexities of social situations (Weiss 2012: 4). Shklar is aware of this problem; she tries to avoid it by relinquishing one *specific* justification for a whole variety of *possible* justifications, and by introducing a formal structure that is historically flexible.

Nevertheless, and particularly at the beginning of this last phase, fear and cruelty *are* normative to an extent in Shklar. In *Ordinary Vices*, Shklar defines cruelty as the "willful inflicting of physical pain," and fear in this conception is fundamentally the fear of painful cruelty (1984: 8).[26] It is obvious that Shklar operates with a primary and secondary notion of fear: she deems it possible to determine the fear of pain as a universal evil, "which all of us know and would avoid if only we could" (1998c [1989]: 11) without having to say anything about the realm of historically and culturally relative fear just yet.[27]

Shklar is not alone in this idea of realism. For Thomas Nagel, whose notion of objectivity she affirmed, the "objective badness of pain" is one of the clearest examples of an "agent-neutral" universal value that is "just as clearly hateful to the objective self as to the subjective individual" (Nagel 1986: 144, 161). Shklar follows this argument—again, to a degree. She does reject relativizing interpretations of pain that subordinate it to creativity and genius, as in Nietzsche and in Elaine Scarry's *The Body in Pain* (Shklar 1984: 40–44; 1986c: 26–27),[28] and she assumes with Rousseau that "our ability to identify with the physical suffering of sentient beings is our only natural social impulse" (Shklar 1986c: 27). Yet Shklar does not endorse Nagel's reasoning completely. She agrees that cruelty can only be a "principle of political morality" once it is universalized, but she does not offer the fully executed argument (Shklar 1998c [1989]: 12). Shklar thus willfully leaves a justificatory gap that allows for a variety of explanations to bridge it, be they utilitarian or Kantian, as she suggests, or indeed similar to Nagel's. But the existence of such a gap does not mean that Shklar rejects justifications *as such*, as antifoundational epistemic skeptics would do; they *can* be given, and she accepts different lines of argument as long as they confirm her conviction

that cruelty is the highest evil; hers is a *universalism of ends*, not one of justifications.[29]

However, her argument undergoes a development. The fear of cruelty stands at the beginning of the liberalism of fear, but in its last public iteration, the little-known essay "Rights in the Liberal Tradition," Shklar can do without it: "At its barest this type of liberalism fears fear itself" (Shklar 1992: 30). The *fear of fear*, more than a reference to Montaigne or FDR (Montaigne 2003a: 83; Roosevelt 1938: 11), is itself a criterion—not an empirical but a *formal* one. Because the fear of fear is a reflexive argument, it can ensure its universality without resorting to a strong naturalism.

The argument, which Shklar only hints at, is something like this: only if one can ensure that an experiential content consistently has a negative experiential quality may one assume it to be universally negative. While pain is the first of Shklar's sources of normativity, it would be possible to question its universality. Nikola Grahek has highlighted the existence of pain asymbolia—that is, "pain that is literally deprived of any painfulness." Here, the content of the experience (the feeling of pain) can be detached from its quality (as a negative sensation). By the example of pain asymbolia, Grahek shows that the idea of pain as "something intrinsically or essentially disagreeable" cannot be universalized (2007: 37–38). One can make a similar, if maybe less convincing, case for fear in the "thrill" Michael Balint has described as the deliberate "leaving and rejoining of security" (1959: 26). Both pain asymbolia and the thrill dissociate the experiential content from the experiential quality—feeling pain without being in pain, feeling fear without "being in fear"—and make it difficult to point to a truly universal negative experience that would allow for universal normative claims. This is not the case with the formula of the "fear of fear," as it ensures the quality of experience is universally negative no matter its reference—the first "fear" would here denote the quality of the experience, the second its content; a phenomenon like the thrill can no longer be described through such a constellation. It is this formalism Shklar alludes to when she writes: "The fear of fear does not require any further justification, because it is irreducible" (1984: 237). What is more, owing to this reflexive structure, what the fear of fear is about does not have to be bound to any naturalistic constant but can change over time and expand its range beyond the "universal constant of physical cruelty" (Forrester 2012a: 252).

Surprisingly, the purely formal structure of the fear of fear is a way to historicize Shklar's highest evil: it produces a *contextual universalism*, positing,

as Axel Honneth writes, a "historicity of fear and injury" (2014: 428). The more the phrase "fear of fear" plays a role in Shklar's writing from the mid-1980s onward, the more she extends the scope of the sources of fear. In "Rights in the Liberal Tradition" Shklar writes that while in the religious wars of the sixteenth century, the liberalism of fear "looked to an end to religiously inspired murder"; today it "has greater expectations than this 'peace at any price' response. It sets its sights higher. It looks not merely to the elimination of terror, but also to the restraint of all sources of avoidable fear." For her, this also involves the "decrease in every form of social inequality" and aims at a society in which no one is "allowed to sink freely and unimpeded into crippling disease and paralyzing poverty" (Shklar 1992: 30–32). This is a far cry from the minimal—and antifoundational—negativism with which the liberalism of fear is usually characterized.[30] In *American Citizenship*, Shklar addresses a historically new source of fear most concretely when she turns the "fear of unemployment" into a politically normative experience from which she derives a "right to earn" (1991a: 95, 100).

If objects of fear become central in this argument, then it is imperative to ensure that these fears can be articulated. This is where the third source of normativity comes in; after the empirical and the formal, it is a transcendental argument. It looks at the condition of the possibility for giving voice to one's sense of injustice. It both forbids any practice that would limit such articulation and demands processes and procedures that help overcome "our almost universal refusal to listen" (Shklar 1986c: 26). Only when the victims are able to give expression to their situation and their disagreement with it can one be plausibly sure of their intentions and the absence of any external usurpatory interpretations. This is why Shklar stresses the virtues of impersonal government, whose proceduralism "gives everyone some access to the agencies of rectification and, more significantly, the possibility of expressing a sense of injustice"—"at least occasionally," as she adds cautiously, since this society is an ideal rather than a reality (1990: 124).[31]

This transcendental criterion, which follows from the "fear of fear" argument, is directly linked to the empirical one. Not only does the negativity of cruelty and pain afford her a criterion by which to pit political against epistemic skepticism; it is also the most minimal cognitive compensation for the situation in which victims remain silent. Wherever direct testimony of those concerned is unavailable, the assumption that they would reject cruelty is the most plausible and least damaging assumption that can be made. One might call it the *Shklarian wager*: the risk involved in assuming that people "really

enjoy their chains" (Shklar 1998c [1989]: 16) is greater than in supposing they share in the universal rejection of cruelty, so it is better to bet on the latter. This is Shklar's point against Taylor's articulation of embedded norms; she fears that "orgies of xenophobia just might lie in the wake of these claims of hermeneutical primacy" (16). However, the assumption that cruelty is universal is primarily an *auxiliary* device: it must be put aside once the victims' voices are audible, which is the state toward which the liberalism of fear has to work. Once again, the method and substance of her political theory are hard to separate.

These are Shklar's three main sources of normativity. They are—in different ways and according to their structure as empirical, formal, and transcendental—sufficiently universalizable to account for a core of positive commitments that serve as criteria for political judgment. Shklar is a political, not an epistemic, skeptic. Her commitments are not simply posited without any argument in the style of Richard Rorty's liberal ironist. At least when it comes to the last phase of her work, beginning with *Ordinary Vices*, labeling her an antifoundationalist misses her style of thought.

The arc of this trajectory leads one to speculate how it might have continued had it not been cut short by her death. The transcendental criterion that demands the conditions for voicing one's sense of injustice brings her close to what Steven Lukes has called a "narrow morality." It provides a "test that ways of life [. . .] must pass to be acceptable." Apart from an Aristotelian or a capabilities approach, Lukes points to the Kantian solution, the test whether a form of life is "justifiable to all involved in and affected by them" (Lukes 2008: 144). In the shape of the transcendental criterion, it is this thought, much more than cruelty and fear, that Shklar pursues at the end of her life. There is a surprising Kantian potential in her theory of liberalism that warrants further investigation—taking seriously what Patrick Riley recounts of his last conversation with Shklar before her death: "When in August 1992 she was jokingly accused of being a closet Kantian, she said, 'Yes. Well . . . what else can one be?'" (Riley 1992: 99).

Notes

I would like to thank Rieke Trimçev, Julia Pelta Feldman, Samuel Moyn, Hubertus Buchstein, Eno Trimçev, and the editors for helpful comments on this essay.

1. Already in 1992, briefly after her death, in the collection *Memorial Tributes* by her friends and colleagues, a consensus had emerged that she was "skeptical to the core" (Isaac

Kramnick) and showed "complete skepticism uncontaminated by the slightest trace of cynicism" (Stanley Hoffmann) (*Memorial Tributes to Judith Nisse Shklar, 1928–1992* [1992: 17, 13]).

2. See also her contribution to this volume, which shows some parallels to my account of Shklar as a specific type of universalist. I disagree, however, with her assumption that "putting cruelty first" and the "liberalism of fear" constitute two clearly distinguishable arguments; rather, they seem to imply *stations* in the development of Shklar's thought.

3. Shklar called "post-modernism [. . .] the fashionable chatter of the moment" (1987c: 656). She seems to have placed it close to the "romanticism of defeat" she attacked in *After Utopia* (1957, chap. 4). Foucault's treatment of the panopticon is indirectly mentioned in *Ordinary Vices*. Unlike Bentham, who took cruelty seriously and attempted "to reform prisons and hospitals and to diminish the brutality of everyday life," his critics put a metaphysical, not a physical, cruelty first (Shklar 1984: 35). In a letter to Joel Schwartz on occasion of an essay he wrote on Bentham's penitentiary, Shklar declared: "Foucault is no favorite of mine." Judith N. Shklar, Letter to Joel Schwartz, November 5, 1982, Papers of Judith N. Shklar, Harvard University Archives, HUGFP 118, Series: Correspondence 1959–1992, Box 2.

4. In the Shklar papers, there are two versions of this talk, both in the form of notes. I use both here: Judith N. Shklar, "The Beginnings of Modern Scepticism," Papers of Judith N. Shklar, Harvard University Archives, HUGFP 118, Series: Speeches 1966–1990, Box 21, and "Jerusalem Scepticism," Papers of Judith N. Shklar, Harvard University Archives, HUGFP 118, Series: Notes 1984–1988, Box 23. I thank Michael Shklar and the Harvard Archive for kind permission to cite unpublished material.

5. Shklar bases her assessments on arguments that can be found in Burnyeat (1983).

6. Shklar already used the expression "historical Pyrrhonism," which she attributes to Pierre Bayle, in "Jean D'Alembert and the Rehabilitation of History" in Shklar (1998a [1981]: 297).

7. Already here one could see an implicit source of normativity. Shklar often argues by blurring fact/norm boundaries; in this case, diversity as a fact would generate diversity as a norm.

8. This had already been the focus of *After Utopia*, in which she surveyed a variety of positions whose reaction to modern uncertainty was either pessimistic resignation or a renewed Christianity.

9. In a review, also from 1987, Shklar restates this point: "It may be logically true that a perfect skepticism has no specific necessary political consequences and may take one anywhere at all, but if the roots of skepticism are religious and political, as they surely were in Montaigne's case, then some public stances are implicit in the refusal to dogmatize" (1987c: 655).

10. See Whiteside (1999: 503), who offers a similar argument, and Shklar (1984: 24); see also Levine (2008).

11. I believe John Rawls was the first to make this observation about Shklar. In his memorial tribute to her, he wrote: "One sometimes hears of Dita's skepticism. But it is not philosophical or moral skepticism. She never doubted her basic liberalism or questioned its values. Her skepticism is aimed at particular ideas or systems thereof" (Rawls 1992: 7).

12. In *Legalism*, she writes that the affinity between liberalism and relativism had been limited to its critical function. "Only negatively, only in opposition to that moral self-assertion that expresses itself in repression, had the alliance really flourished" (Shklar 1986b [1964]: 65).

13. As did Edward Gibbon, "Learning Without Knowing" (Shklar 1998b [1980]: 109–10); for that idea in general, see Koselleck (2004).

14. See also Forrester (2011). For a reading that assumes a strong break between this book and her later work, see Samuel Moyn's contribution to this volume.

15. Runciman distinguishes reportage (of facts), (causal) explanation, and description (intracultural interpretation) (1983); see also Stullerova (2014: 39–40).

16. Interestingly, Shklar comes rather close to Arendt's insistence on the necessity of factual truths. When Shklar says that "Norway did not invade Germany in 1940, we may recall with relief" (1998d: 92), this is a direct adaptation of an anecdote Arendt relates about Clemenceau: "'What, in your opinion,' Clemenceau was asked, 'will future historians think of this troublesome and controversial issue?' He replied 'This I don't know. But I know for certain that they will not say Belgium invaded Germany'" (Arendt 2006: 234–35).

17. Shklar wants to "distinguish between the prophetic hope of transformative politics and the realistic hope of reformist politics" (Forrester 2011: 595).

18. See also Kamila Stullerova's chapter in this volume.

19. "Dworkin regrettably has chosen literary hermeneutics as his model, with all its hostility to causal explanation and reliance on empathy and intuition for understanding social phenomena" (Shklar 1987b: 261).

20. Letter to John Rawls, November 10, 1986, Papers of John Rawls, Harvard University Archives, HUM 48, Series: A. Personal Name Correspondence 1973–2001, Box 41.

21. Letter to John Rawls, November 10, 1986, Papers of John Rawls. For this reason, I would be slightly more hesitant than Volker M. Heins is in his contribution to this volume to subsume Shklar under the rubric of "immanent critique." The "elucidation of common experience" can be embraced if, and only if, its expression does not obstruct the articulation of *particular* experiences within society.

22. Shklar takes Quentin Skinner's contextualism as exemplary political theory and approvingly cites his "'Social Meaning' and the Explanation of Social Action" (Skinner 1972).

23. Judith N. Shklar, "Being Scientific Without Science, APSA 1986," Papers of Judith N. Shklar, Harvard University Archives, Box 21. For a good explanation of Shklar's own take on explanation, see Shklar (1975).

24. For Shklar's insistence on psychology, see Katrina Forrester's contribution to this volume; for her use of literature, see the chapters by Tracy Strong and by James Brown and Thomas Osborne in this volume.

25. This point is convincingly made in Stullerova (2014: 29). See Bernard Yack's contribution in this volume for an appreciation of Montaigne's influence on Shklar.

26. It is, then, not yet the fear of any social or political ills, which is why Corey Robin may be rash in identifying Shklar's fear with antitotalitarianism's terror, and claim her to hold to a "Liberalism of Terror" (Robin 2004:144).

27. Maybe surprisingly, Taylor too makes this difference when he distinguishes the fact of pain from socially constructed emotions like shame (or, as one could add, culturally relative fear) (see Taylor 1985 [1979]: 223).

28. See Bernard Yack's contribution to this volume for Shklar's discussion of Nietzsche's celebration of cruelty in particular.

29. An anthropological conviction is at play here. This thought follows Carl Schmitt's dictum that "all theories of state and political ideas" may be tested "according to their anthropology" (2007 [1932]: 58). Aware of this problem, Shklar points out that "political theory

can neither live with nor live without some idea of human nature" (1978: 1384). I have discussed Shklar's own position as a "negative anthropology" that eschews any essential claims about humans but highlights contingency and vulnerability (Bajohr 2013).

30. In this respect, Michael Walzer is perfectly correct in pointing out that a purely negative politics is empty, but quite wrong in assuming that this is what Shklar is after (see Walzer 1996).

31. There is a very basic parallel to Habermas and Apel's transcendental pragmatics to be found here, and in a posthumously published essay, Shklar praises Habermas's theory of communicative action, even if she adds the caveat that it is "less original" than Rawls's normative approach (Shklar 1998e: 189). Recently, Seyla Benhabib and Paul Linden-Retek have suggested a similar proximity with regard to Habermas and Shklar's respective legal theories (Benhabib and Linden-Retek 2018).

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