

lies in “strong, high-functioning work groups whose members . . . challenge one another and engage directly with senior managers on critical issues facing corporations.”⁵¹ The problem is that when corporate directors, even intelligent and powerful ones, are placed “into a group that discourages dissent, they nearly always start to conform.” And “CEOs who don’t welcome dissent try to pack the court.” This is a serious problem for shareholders because the evidence suggests that “the highest performing companies have extremely contentious boards that regard dissent as an obligation and that treat no subject as undiscussable.” Thus well-functioning boards contain “clashing viewpoints and challenging questions.”

These points are a tribute to the power of checks and balances—to the value of creating Teams of Rivals, even in domains in which leaders usually seek team players, that is, those who go along with prevailing wisdom. If unjustified extremism is a problem, the old idea of checks and balances is likely to have a number of fresh uses. We have only started to realize its promise.

CHAPTER 5

Good Extremism

It is obvious that extremism is not always bad. Sometimes extreme movements are good, even great. When people shift from indifference to intense concern with local problems, such as poverty and crime, group polarization is an achievement, not a problem. Barry Goldwater was correct to say that “extremism in the defense of liberty is no vice.” The American Revolution, the civil rights movement, and the fall of both communism and apartheid had everything to do with mechanisms of the sort sketched here. Once we acknowledge that extremism can be desirable, and that group polarization can move people toward engagement in solving serious problems, the analysis has to be modified. But how?

DIVERSITIES

Societies gain from group polarization and, in particular, from deliberating enclaves, consisting of groups of like-minded people. People need spaces where they can assemble

with others to discuss issues on their own; consider, for example, entrepreneurs, scientists, disabled people, economists, and the elderly. Such spaces promote learning, creativity, and innovation. They provide comfort and solace. They are also indispensable to both economic growth and democracy. In an important essay, law professor Heather Gerken draws attention to “second-order diversity”—the kind of diversity that comes when society consists of many groups that do not have a lot of internal diversity.¹ First-order diversity has been my emphasis here; it refers to the degree of diversity *within* groups and organizations. Second-order diversity is altogether different. It refers to the degree of diversity *across* groups and organizations.

The United States gains from a situation in which Utah, California, and Massachusetts are allowed to attempt their own experiments on marriage, welfare, and the environment. We can all see what works and what doesn't. If some economics departments are conservative and others are liberal, the profession as a whole, and eventually the nation, will learn from the ideas and theories that emerge. Gerken argues that in many domains, what we do seek, and what we should seek, is second-order diversity. John Stuart Mill celebrated “experiments in living,”² and any such experiments will ensure that like-minded types spend a lot of time together. And when second-order diversity exists, there will be a number of echo chambers—and a lot of group polarization.

For any nation, second-order diversity may be especially important, certainly in the long run. If many organizations are allowed to exist, and if each of them is made up of like-minded people, the nation will ultimately benefit from the greater range of views and practices that emerge. Inevitably, several of those groups will be extreme, but their very extremism will enrich society's “argument pool” and thus

promote sensible solutions. The federal system benefits from second-order diversity; so does the study of science, anthropology, and literature. Freedom of association ensures the existence of a wide range of like-minded groups: Catholic organizations, Jewish organizations, animal rights groups, the National Rifle Association, gay rights groups, pro-Palestinian groups, Muslim organizations, and countless more. If group polarization is occurring in some or many of those groups, we may all gain from what emerges.

There is a further point. If people speak to like-minded others, they are more likely to be energized, and if they are more likely to be energized, they are more likely to become active, politically or otherwise.³ If people hear the other side and give serious consideration to competing arguments, they may well be more respectful and tolerant—but they are also more likely to be passive and perhaps even indifferent. Group polarization promotes engagement; conversations with multiple others can produce inaction and paralysis. A political process might well depend on a situation in which many groups of like-minded types spur their members to seek change.

ENCLAVES AND SELF-SILENCING

Enclaves provide many benefits for their members and for society alike. I received a powerful lesson about those benefits twenty years ago in Beijing, when I taught a class to a group of about forty highly educated men and women on the topic of sex equality and feminism. In a session of about two hours, only the men spoke. Almost all of them were hostile to feminism. No woman said a single word. After the session, I asked some of the women why they had been silent. One of them said, “In China, we are taught that to speak out is not beautiful.” In private discussions, it emerged that many

of the women in the room had strong feminist commitments, believed that China did not promote sex equality, and agreed with the basic thrust of feminist arguments as they were made in American law schools. These positions emerged in small groups. They were not much voiced in larger ones, at least if significant numbers of men were present. But they are now playing a large role in Chinese society.

This is not only a story about China. Even in the United States, Canada, and Europe, women sometimes silence themselves, notwithstanding the success of the movement for equality. The same is true for members of many other groups, including African Americans and religious conservatives. Such silence does serious harm to group members and the public at large. The silence deprives society of information that it needs to have. In this light, a special advantage of what we might call “enclave deliberation” is that it promotes the development of positions that would otherwise be invisible, silenced, or squelched in general debate.

In numerous contexts, this is a great advantage. Many social movements have been made possible through this route; consider the civil rights movement, Reaganism, the disability rights movement, environmentalism, the movement for gay and lesbian rights, and both gun control and opposition to gun control. The efforts of marginalized groups to exclude outsiders, and even the efforts of political parties to limit their primaries to party members, can be understood and sometimes justified in similar terms. Even if group polarization is at work—perhaps *because* group polarization is at work—enclaves can provide a wide range of social benefits, especially to the extent that they enrich the number of available facts and arguments. And when members of such groups eventually speak in more heterogeneous groups, they often do so with greater clarity and confidence. Society ends up knowing a lot more than it knew before.

A central empirical point is that in deliberating bodies, high-status members tend to initiate communication more than others, and their ideas are more influential, partly because low-status members lack confidence in their own abilities, and partly because they fear retribution.⁴ For example, women’s ideas are often less influential and sometimes “suppressed altogether in mixed-gender groups.”⁵ In ordinary circumstances, cultural minorities have disproportionately little influence on decisions by culturally mixed groups.⁶ In these circumstances, it makes sense to promote deliberating enclaves in which members of multiple groups may speak with one another and develop their views.

But there is a serious danger in such enclaves. The danger is that through group polarization, members will move to positions that lack merit but are predictable consequences of the particular circumstances of enclave deliberation. We have seen that in extreme cases, enclave deliberation may end up in violence and put social stability at risk. And it is impossible to say, in the abstract, that those who sort themselves into enclaves will generally move in a direction that is desirable for society at large or even for themselves. It is easy to think of examples to the contrary; consider the rise of Nazism, hate groups, conspiracy theorists, terrorist cells, and numerous cults of various sorts.

Sometimes the threat to social stability is desirable. As Thomas Jefferson wrote, turbulence can be “productive of good. It prevents the degeneracy of government, and nourishes a general attention to . . . public affairs. I hold . . . that a little rebellion now and then is a good thing.”⁷ Turbulence to one side, any judgments about enclave deliberation are hard to make without a sense of the underlying substance—of what it is that divides the enclave from the rest of society. Note once more that nothing is wrong with group polarization by itself: If people become more outraged after

talking, if punitive damage awards go up, or if people end up with a stronger commitment to the position with which they began, nothing need be amiss. We cannot condemn movements toward new points of view without knowing whether the new points of view are better or worse.

From the standpoint of designing our institutions and even living our daily lives, one problem is that enclave deliberation will ensure group polarization among a wide range of groups—some necessary to the pursuit of justice, others likely to promote injustice, and still others potentially quite dangerous. And even when enclaves lead in good directions, enclave deliberation is unlikely to produce change unless its members are eventually brought into contact with others. In democratic societies, the best approach, and the way to benefit from second-order diversity, is to ensure that any such enclaves are not walled off from competing views—and that at many points, there is an exchange of views between enclave members and those who disagree with them.

It is total or near-total self-insulation, rather than group deliberation as such, that carries with it the most serious dangers—often in the highly unfortunate (and sometimes literally deadly) combination of extremism with marginality. One of the most important lessons is among the most general: It is crucial to create spaces for enclave deliberation without insulating enclave members from those with opposing views and without insulating those outside the enclave from the views of those within it. But how might we go beyond these abstractions?

FREE SPEECH, PUBLIC FORUMS, AND THE ARCHITECTURE OF SERENDIPITY

In a common understanding, the free speech principle forbids government from “censoring” speech of which it

disapproves. In the standard cases, the government attempts to impose penalties, whether civil or criminal, on political dissent, libelous speech, commercial advertising, or sexually explicit speech. The question is whether the government is allowed to restrict the speech that it seeks to control; in free societies, usually it isn't.

This is indeed what most of the law of free speech is about. But in many free nations, an important part of free speech law takes a quite different form; it has a positive dimension. In the United States, for example, the Supreme Court has ruled that streets and parks must be kept open to the public for expressive activity. In the leading case, from the first half of the twentieth century, the Court said, “Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and time out of mind, have been used for the purposes of assembly, communicating thought between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens.”⁸ Hence governments are obliged to allow speech to occur freely on public streets and in public parks—even if many citizens would prefer to have peace and quiet, and even if it seems irritating to come across protestors and dissidents when you are simply walking home or to the local grocery store.

To understand the relationship between the public forum doctrine and unjustified extremism, we should notice that the public forum doctrine promotes some important social goals.⁹ First, it ensures that speakers can have access to a wide array of people who might otherwise live in their own enclaves. If you want to claim that taxes are too high or that police brutality against African Americans is widespread, you are able to press this argument on many people who would otherwise not hear the message. The diverse people

who walk the streets and use the parks are likely to hear speakers' arguments about taxes or the police; they might also learn about the nature and intensity of views held by their fellow citizens. Perhaps some people's views change because of what they learn; perhaps they will become curious enough to investigate the question on their own. On the speakers' side, the public forum doctrine thus creates a right of general access to heterogeneous citizens.

On the listeners' side, the public forum creates not exactly a right but an opportunity, if perhaps an unwelcome one: shared exposure to diverse speakers with diverse views and complaints. It is important to emphasize that the exposure is shared. Many people will be simultaneously exposed to the same views and complaints, and they will encounter views and complaints that some of them might have refused to seek out in the first instance. Indeed, the exposure might well be considered, much of the time, irritating or worse.

Second, the public forum doctrine allows speakers to have general access not only to heterogeneous people but also to specific people and specific institutions with whom they have a complaint and who might otherwise be insulated from that complaint. Suppose, for example, that you believe that the state legislature has behaved irresponsibly with respect to health care for children. The public forum ensures that you can make your views heard by legislators, simply by protesting in front of the state legislature itself.

The point applies to private as well as public institutions. If a clothing store is believed to have cheated customers or to have acted in a racist manner, protestors are allowed a form of access to the store itself. This is not because they have a right to trespass on private property—no one has such a right—but because a public street is highly likely to be close by, and a strategically located protest will undoubtedly catch the attention of the store and its customers. Under

the public forum doctrine, speakers are thus permitted to have access to particular audiences, and particular listeners cannot easily avoid hearing complaints that are directed against them. In other words, listeners have a sharply limited power of self-insulation.

Third, and most important, the public forum doctrine increases the likelihood that people generally will be exposed to a wide variety of people and views. When you go to work or visit a park, it is possible that you will have a range of unexpected encounters, however fleeting or seemingly inconsequential. On your way to the office or when eating lunch in the park, you cannot easily wall yourself off from contentions or conditions that you would not have sought out in advance or that you would avoid if you could. Here, too, the public forum doctrine tends to ensure a range of experiences that are widely shared—streets and parks are public property—and also a set of exposures to diverse views and conditions.

The public forum doctrine reflects a kind of social architecture, meant in the literal sense. It works to counteract a situation in which members of deliberating groups are engaged in a high degree of self-segregation. I have referred to the architecture of serendipity and opposed it to the architecture of control. The public forum doctrine opposes control and promotes serendipity. It ensures a range of unplanned, unanticipated, unchosen encounters. In that way, it promotes cognitive diversity. It makes it difficult for like-minded people to insulate themselves from those who think differently. Indeed, the architecture of serendipity is part of a well-functioning system of checks and balances; it helps to check the effects of echo chambers and ensure that those with blinders, or those who prefer information cocoons, occasionally see elsewhere. What they see may change their minds, even their lives.

CHECKS AND BALANCES EVERYWHERE

Is it possible to generalize from the public forum doctrine? We might be able to think of other domains in which people might benefit from serendipity and in which social architecture can ensure that people who spend a lot of time in enclaves are also exposed to competing views. Daily newspapers, weekly newsmagazines, and radio and television broadcasters can do a great deal of good on this count. When they are operating well, they combat unjustified extremism by ensuring that like-minded people will occasionally see things that seem jarring and that might make them rethink. To the extent that private institutions are aware of the risks that I have discussed, they assume a civic or democratic function precisely in the sense that they see themselves as a key part of the system of checks and balances. In the 1980s, Mark Fowler, the head of the Federal Communications Commission, said, "Television is just another appliance. . . . It's a toaster with pictures." If the mass media sees itself in these terms, it may well promote, rather than reduce, the difficulties I have explored here.¹⁰ A central task, in democratic societies, is for the print and broadcast media, and those who run and participate in Web sites, to combat self-segregation along political or other lines.

It would also be most valuable to take a fresh look at other institutions that either promote or combat self-insulation. I have referred to the fact that bipartisan membership is required for some of the most important institutions in the United States: the National Labor Relations Board, the Federal Communications Commission, the Federal Trade Commission, the Securities and Exchange Commission. If the goal is to undermine (false) conspiracy theories, a good means is to ensure that those who hold such theories are

exposed to credible counterarguments and are not living in an echo chamber of their own design.¹¹ In the private sector, economic disasters, for individuals and large groups, are often a product of conversations among like-minded people, in which some investment or project seems to be a sure winner. The economic crisis that began in 2008 was a product, in significant part, of a form of group polarization, in which skeptics about the real estate bubble, armed with statistical evidence, did not receive a fair hearing or were in a sense silenced. The best companies, and the best investors, benefit from internal checks and balances.¹²

I have emphasized that extreme movements may be desirable, even when they result from mechanisms of the sort traced here. And even when they are not desirable, extreme positions can do a great deal of good. Societies gain from second-order diversity, not least because of the range of experiments, and the vast array of competing positions, produced by that form of diversity. Nothing said here is meant to deny these claims. But if extreme movements are to occur, it should be because they are sensible and right—and not because of the predictable effects of interactions among the like-minded.

49. See Dan Reiter and Allan Stam, *Democracies at War* (Princeton, N.J.: Princeton University Press, 2002).

50. Caryn Christensen and Ann S. Abbott, Team Medical Decision Making, in *Decision Making in Health Care* (Gretchen B. Chapman and Frank A. Sonnenberg, eds., Cambridge: Cambridge University Press, 2000), 267, 272-76 (discussing effects of status on exchange of information in group interactions).

51. Jeffrey A. Sonnenfeld, What Makes Great Boards Great, *Harvard Business Review* (September 2002).

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1. See Heather Gerken, Second-Order Diversity and Disaggregated Democracy, *Harv. L. Rev.* 118 (2005): 1099.

2. For a superb discussion, see Elizabeth Anderson, John Stuart Mill and Experiments in Living, *Ethics* 102 (1991): 2.

3. See the important discussion in Diana Mutz, *Hearing the Other Side* (Cambridge: Cambridge University Press, 2006).

4. See Christenson and Abbott, Team Medical Decision Making, 273.

5. *Ibid.*, 274.

6. C. Kirchmeyer and A. Cohen, Multicultural Groups: Their Performance and Reactions with Constructive Conflict, *Group and Organization Management* 17 (1992): 153.

7. See Letter to Madison (January 30, 1798), reprinted in *The Portable Thomas Jefferson* (M. Peterson, ed., New York: Viking, 1975), 882.

8. *Hague v. CIO*, 307 US 496 (1939). For present purposes, it is not necessary to discuss the public forum doctrine in detail. Interested readers might consult Geoffrey Stone et al., *The First Amendment* (Boston: Aspen, 1999), 286-330.

9. See the excellent discussion in Noah D. Zatz, Sidewalks in Cyberspace: Making Space for Public Forums in the Electronic Environment, *Harv. J. Law & Tech.* 12 (1998): 149.

10. See Kathleen Hall Jamieson and Joseph Capella, *Echo Chamber* (New York: Oxford University Press, 2008).

11. See Sunstein and Vermeule, Conspiracy Theories.

12. See Sonnenfeld, What Makes Great Boards Great; Harrington, *Pop Finance*.

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